

Testimony of Andrew Phillips
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Before the Committee on Health, Education, Labor and Pensions
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**The ADA and Entertainment Technologies:
Improving Accessibility from the Movie Screen to Your Mobile Device**

Good afternoon Chairman Harkin, Ranking Member Alexander, and distinguished Members of the Committee. My name is Andrew Phillips. I am the Policy Counsel for the National Association of the Deaf (NAD). In this role, I am responsible for the NAD's work on federal legislation and the rulemaking processes within various federal agencies. The NAD represents over 48 million deaf and hard of hearing Americans. I am also a deaf person who enjoys watching movies and shows, on television, on the Internet, and elsewhere.

I consider myself lucky to have been born in the early 1980s and to have come of age after the passing of the Americans with Disabilities Act of 1990 (ADA) as well as other federal laws mandating access for people with disabilities. However, even to this day, I am often reminded that I am not completely welcome in mainstream society because I am deaf.

Going to the Movies

I remember going to movies with my family when I was young even though no captions were available. My mother would sit next to me in the theater interpreting everything that was said—she very much wanted me to be able to enjoy the theater experience with family and friends. Other times, I was not as fortunate, and would go to the movies without somebody who could interpret. I have memories of my uncle telling me the plots of movies before we went into a theater so that I could at least try to figure out what was going on while watching the movie. Luckily for me, I had a pretty good imagination and usually made up my own story. I actually remember re-watching some movies later on with captions and being disappointed by how dull the movies turned out to be.

As I entered my teens, some theaters in my area began showing movies with open captions. Deaf and hard of hearing people would pour into these very limited showings. The open captioned showings usually came at the end of the movie's theater run and during non-peak hours such as Sunday afternoons. It really bothered me that I could never see the new movie my brother was raving about until months later nor could I take a girl to the movies on a Friday night date.

Thanks to legal efforts and their effects over time, movie theaters started showing captioned movies earlier in their run, more frequently, and during peak showing times. However, many theaters have now abandoned open captioned showings in favor of providing closed captioning through the use of assistive devices provided by the theaters. The devices vary: Some display captions on portable screens held up by a stand that fits in the cup holder, while others display captions on special glasses worn during the movie. While these devices have been a blessing for some individuals, they are neither comfortable nor easily usable for many deaf and hard of hearing people. However, theaters usually determine what kind of access to provide without consulting deaf or hard of hearing people and they only provide one option. I personally have had bad experiences with these assistive devices—shifting my gaze between the captions so close to my eyes and the screen so far away sometimes gives me headaches. I, along with many

in the deaf and hard of hearing community miss the open captioned showings and wish for the same easy access to movies in theaters that we can create at home. In digital theaters, open caption display capability is built into the digital projector, thus making it possible to turn captions on easily at the request of a patron.

My friends who live in rural areas tell me that it's much harder to find accessible showings there, as the large theater chains, which are the most likely to provide access, rarely service their area.

Watching Television

Thanks to the phase-in requirements of the Telecommunications Act of 1996, virtually all television content is closed captioned. However, this was not the case for me growing up. I can clearly remember my mother sitting next to the television, interpreting the O.J. Simpson freeway chase and news reports about the Gulf War where a member of our family was serving in the U.S. military. With recent laws, I have been able to watch nearly anything on television. However, the 1996 captioning rules carry exemptions that continue to limit access. Deaf and hard of hearing organizations have been advocating for the end to many of these outdated exemptions, calling for universal captioning of televised content. For instance, late night programming distributed between 2 AM until 6 AM is exempted as well as advertisements of more than five minutes, and some live news programming in areas that are not part of the top 25 media markets.

Additionally, television captioning often contains errors such as typos, timing delays, or missing words that render the message incomprehensible. We have little recourse to determine the intended statement. I'm sure you can imagine the confusion created when the caption reads "Iran" instead of Iraq, or when the captions lag so far behind what is being said that it's impossible to figure out who's speaking and in what context. The NAD and other consumer organizations have been calling for captioning quality standards since 2004 and earlier.

Watching Online Programming

In recent years, we have witnessed the massive growth of streamed online programming. When these shows first became available online, practically none were captioned. I felt transported back to the late 1980s and early 1990s—only I was at college and no longer had my mom around to interpret. Many deaf and hard of hearing people contacted these video programming distributors and pleaded with them to caption their streamed content. Some added captions; but many did not.

With the passage in 2010 of the 21st Century Communications and Video Accessibility Act (CVAA), full-length programming first shown on television with captions and later online must be captioned online as well. We are enjoying tremendous growth in the accessibility of online

programs and are able to watch them on smart TVs, computers, tablets, smart phones, and gaming consoles. However, the FCC exempted video clips taken from full-length programs on television and displayed online. This means that many videos shown on major news websites are not captioned because they are considered clips of full-length programs.

Like so many people my age, I prefer getting my news online. Increasingly, I run into these uncaptioned video clips which leaves me trying to lip-read news anchors—a difficult, if not impossible task. Some preliminary research that is being done by several deaf and hard of hearing organizations and two academic institutions has found that the vast majority of segmented news programming (70%) and news video clips (77%) shown online are not captioned, denying deaf and hard of hearing people access to critical news programming such as of the Boston marathon bombing coverage. It's ridiculous that these clips are not captioned on the Internet, given that almost all of them were captioned when shown on television. There is no reason not to require a showing of the same captions on the Internet.

On top of this, we are seeing more and more online-only programming that has never been shown on television. Several online video programming distributors are already offering or have plans to offer online-only TV shows. Such programming is not currently required to show captions under the CVAA.

In-Flight Entertainment

Air travel has long been one of the most frustrating experiences for me as a deaf person. It is maybe the only place where watching an uncaptioned program is my only choice of entertainment. If I am at home and something is not captioned, I can change the channel. If I go to a movie and it is not captioned, I can leave the theater. But on airplanes, no matter what is offered, nothing is captioned and I have no option but to stay. Unlike the other passengers, I must either bring my own entertainment or cope with programs I cannot understand. There is no other place where the lack of accessibility is so blatant, and where I feel so sharply the sting of my exclusion from the mainstream.

It is especially disappointing that so many airlines continue to deny deaf and hard of hearing passengers access on behind-the-seat screens when many of the programs have already been captioned on television or in theaters. Further, when flying internationally on other countries' airlines, I often can watch movies with English subtitles. Why is it that I can enjoy access on other countries' airlines, but on American air carriers, I cannot have such access? The technology to provide captions on these behind-the-seat screens is already available—a few United Airlines flights currently provide captioned live television programming. In an age when many smart phones support captions, there is no reason why airlines cannot also support captions on their devices.

While accessibility solutions often cost extra money, evolutions in technology have greatly reduced the price of providing and supporting captions. For instance, at the time Congress initially required televisions to be equipped to display captions, this could be achieved only through built-in circuitry that added to the price of the television set. However today in many devices the decoder chip has been replaced by a simple software program that often that can be downloaded over the Internet at no additional cost. It also used to be that the captions displayed in movie theaters had to be printed on the specific reel used for showing the movie, but today the digital format used in most theaters allow captions to easily be added as well as turned on/off. In short, it has never been cheaper or easier to provide captions or to support captions in products, and we can anticipate the cost of providing accommodations to decrease as the demand for them persists.

I continuously remind myself of how lucky I am to have grown up as a child of the ADA, as I enjoy far better access than deaf and hard of hearing people before me or than those in many countries around the world. We in the United States have come far, just over the course of my lifetime. But we have farther to go, and I hold hope for the future, believing that together we can make the world fully accessible for people with disabilities. A friend of mine once told me that the disability group is the only minority group that anybody might join at any time. An accessible world benefits all of us, and we never know when one of our family and friends—or even we ourselves—may need accessibility solutions.

Thank you for the opportunity to testify before you today. I look forward to answering any questions and comments you may have.