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To the Maryland Legislature,

The Association of Late Deafened Adults (ALDA) writes in support of an Open Captioning Movie bill. SB 92 and HB 426 are a modest, but important step towards providing open captioned movies for people who are Deaf, people who are hard of hearing and people who are deaf/blind. In short, this will permit these people with the opportunity to fully enjoy movies.

The Americans with Disabilities Act (ADA) requires "places of public accommodation," specifically including movie theaters, to provide effective communication for people with sensory disabilities. For patrons who are Deaf, who are hard of hearing and who are deaf/blind, this is done through captioning. The captions convert the dialogue and other aural information into written form. This permits the patrons to "hear" with their eyes.

After several successful court cases, in 2016, the federal Department of Justice issued captions regulations. These regulations require all movie theaters to provide individual viewing devices. In theory, patrons who want captioning can use those devices without altering the movie-going experience for others. This method is referred to as closed captioning (CC), because the captions are visible only to those who choose to see them.

While the viewing devices can deliver captions, experience has shown that they frequently provide an unacceptable experience. Glasses that show the captions on the lens are heavy and physically uncomfortable. The captions glasses are designed to rest on top of the ear, where hearing aids, cochlear implants and regular glasses are located (sometimes this is painful to do, especially with eyeglasses).

Other captions devices attached to a flexible arm on a base that fits into a cup-holder often fall out of alignment or on the floor. All these devices must be properly sanitized, maintained and charged: that requirement is often overlooked. The devices must be checked out and returned. Many users are uncomfortable with the conspicuous nature of the devices and 'putting themselves out there' in public. Many wish to walk into the theater and be treated like other patrons – with privacy and anonymity to fit in with everyone else.

For those reasons, patrons who are Deaf, who are hard of hearing and who are deaf/blind greatly prefer open captions (OC), in which the captions appear on the screen like subtitles for foreign-language films and provide a hands-free and hassle-free experience. The

ADA does not require OC, but the ADA explicitly states that state and local laws providing greater protection for people with disabilities are valid.

In 2015, Hawaii became the first state to require OC showings, passing a state law essentially identical to SB 92 and HB 426, and that law is now permanent. In 2021, New York City passed an ordinance requiring four OC showings each week for most movies. A pending ordinance in the District of Columbia would require that a minimum of 12% of all movie showings be OC.

The theaters believe that some hearing people find on-screen captions distracting, and avoid those showings. Attendance figures do indicate lower attendance at OC showings than at other showings. But those numbers, in and of themselves, prove almost nothing.

People who want to avoid OC may go to another showing of that movie, or to a different movie at the same theater, and in those cases, the theaters lose no revenue. On the other hand, some people who attend OC showings would otherwise not be in the theater at all, and those patrons, even if their numbers are modest, represent revenue the theaters would otherwise not realize at all. The question is not attendance at individual OC showings, but rather, whether a modest number of OC showings adds to or detracts from total revenue.

Some tantalizing data comes from a pre-pandemic experiment in D.C., where a number of theaters began offering some OC showings. The National Association of Theatre Owners (NATO) engaged Ernst & Young to develop an economic model that would predict movie attendance based on variables like showtime and type of movie. Sometimes, when a movie was showing in more than one auditorium, an OC showing would take place within an hour of a non-OC showing of the same movie. In those cases, attendance at the OC showing was usually lower than at the non-OC showing. But combined attendance at both showings was higher than the predicted attendance at those two showings.

Deaf and hard of hearing patrons are not trying to impose their movie-going preferences on everyone. A movie is typically shown 31 times per week in each auditorium -- a blockbuster being shown in three auditoriums will have roughly 90 showings per week. Requiring two of those showings be OC will not meaningfully limit the choices available to people who don't want on-screen captions, but will provide real and important benefits for those who prefer the OC format.

ALDA believes SB 92 and HB 426 are modest in scope, but a big step towards equitable treatment for the substantial population of deaf and hard of hearing movie-goers.

Thank you,

Laura Sinclair,  
President, ALDA Inc.