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ALDA, Inc. is a 501(c)(3) nonprofit organization

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To Whom It May Concern,

The Association of Late Deafened Adults (ALDA) strongly supports HB 264, a modest but important step towards making movies truly accessible to tens of thousands of deaf and hard of hearing people in Maryland.

ALDA is a nationwide non-profit organization. It originally focused on people who lost some or all of their hearing after acquiring speech, but now includes everyone with less-than-normal hearing, including members who have been deaf since birth, as well as members who communicate orally and use cochlear implants or hearing aids. ALDA has been actively involved in making movies accessible to its constituents and other people with similar needs.

In 2016, the federal Department of Justice adopted regulations requiring movie theaters to offer closed captioning (CC), in which dialogue and other aural information is put into written form and displayed on individuals viewing devices for every showing of every movie distributed with captions. The regulations were intended to codify results that had been obtained through litigation, much of which involved ALDA as an organization.

While CC is a huge step forward, it is not an optimal solution either for deaf and hard of hearing patrons or for the theaters. The viewing devices can be cumbersome and conspicuous. Checking those devices out and back in can be a hassle, and some theaters require users to leave a drivers' license or some other form of ID. Some of the devices rest in the cup-holders, leaving users with no place to put their drinks. Captioning glasses are heavy and uncomfortable to wear. The theaters don't like the devices much better. The devices need maintenance, and personnel must know how to use them. Devices do break down, and are expensive to replace. Malfunctions create unhappy patrons and divert theater attendants from revenue-generating other duties like selling tickets and refreshments.

Open-captioned (OC) movies solve most if not all of those problems. The patrons buy a ticket, go into the auditorium and take their seats, with hands free to carry drinks and popcorn. The theater simply selects the open-captioned version on the digital server – the modern equivalent of a projector – and the captions appear on the screen for that showing only at no cost to the theater.

Theaters have expressed concern that hearing patrons may dislike open captions and avoid those showings, and indeed, modest attendance at individual OC showings seems to support that argument. However, a typical movie is shown 31 times per week in each auditorium, where it is playing. People who wish to avoid OC can simply go to a different showing, in which case, the theater loses no money. On the other hand, some of the people at the OC

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showing might otherwise not be at the theater at all, meaning that patronage, however modest it might be, is all new revenue.

While movie theaters in general are facing enormous financial pressures, there is no hard evidence that modest OC mandates are a problem. Hawaii adopted a statewide OC mandate identical to HB 264 in 2015, passed a watered-down extension in 2017, then restored the original mandate in 2019 and made it permanent when the theater owners failed to persuade the legislature that it had been harmful. New York City adopted a robust OC ordinance in 2021 requiring 4 OC showings per week of most movies and specifying that some of those showings must occur during prime weekend and weeknight viewing hours. The theaters were invited to amass data on the impact that ordinance had on aggregate attendance if they thought the requirement should be reconsidered, but have not done so.

The only serious attempt to assess the impact of scheduled OC showings on aggregate attendance occurred in the District of Columbia in 2019. A proposed ordinance there would have required that at least 12% of all showings of each movie be OC, meaning essentially four OC showings per week of each movie in each of the auditoriums where the movie was being shown. The National Association of Theatre Owners (NATO) engaged Ernst & Young to assess the financial impact. E&Y developed a model to predict attendance based a number of variables like showtime and type of movie.

One thing E&Y examined was “paired” showings, where the same movie was being shown in two auditoriums within an hour of each other, one showing with OC and one showing without. Consistent with prior data, attendance at the OC showing was lower than was predicted, and lower than at the non-OC showing of the same movie. However, the attendance at the paired non-OC showing not only exceeded predictions, but did so by a margin greater than the shortfall at the OC showings. That study – cut short by covid closures – suggested that the impact on aggregate attendance was positive, not negative. People who wanted to avoid OC showings found another showing to attend, some people at the OC showings wouldn’t have been in the theater otherwise.

HB 264 is a modest proposal, but it is a step in the right direction. ALDA urges its adoption.

Laura Sinclair, ALDA President

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