

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is entered into by and between the American Council of the Blind (“ACB”), the Bay State Council of the Blind (“BSCB”), Kim Charlson, and Brian Charlson (collectively, “Claimants”); WarnerMedia Direct, LLC (“WM Direct”); and, solely for purposes of Sections 3.3, 9.3, and 9.14 below, Home Box Office, Inc. (“HBO”). Claimants, WM Direct, and HBO are sometimes collectively referred to as the “Parties,” or individually as a “Party”.

1 RECITALS

On February 19, 2019, Claimants sent correspondence to HBO requesting improvements to the accessibility of the online entertainment services known as “HBO GO” and “HBO NOW” to individuals who are blind or visually impaired.

HBO and WM Direct responded jointly, and the Parties agreed to enter structured negotiations regarding HBO GO, HBO NOW and HBO Max (in each case as defined below).

The Parties have determined that it is in their mutual best interests to enter into this Agreement, which resolves all potential claims and disputes between them relating to accessibility of HBO Max to individuals who are blind or visually impaired.

Unless otherwise expressly noted, commitments and obligations herein pertain solely to HBO Max and not HBO GO nor HBO NOW.

2 DEFINITIONS

“AD” or “Audio Description” means narration added to the soundtrack of audiovisual programming to describe important visual details that cannot be understood from the main soundtrack alone.

“AD Availability Date” means the date that is (i) with respect to Website and Mobile Applications made available as of Launch, ten (10) months after Launch; and (ii) with respect to Connected TV Applications made available as of Launch, sixteen (16) months after Launch.

“Connected TV Applications” means, with respect to each Internet connected television platform on which WM Direct makes HBO Max available to the public as of the Effective Date, the most recently released version of the WM Direct owned and controlled application providing end user access to HBO Max on such platform. As of the Effective Date, the connected television platforms on which WM Direct makes HBO Max available to the public are: AT&T TV Osprey, certain versions of Tizen, tvOS, Android TV, Xbox One and PlayStation 4.

“Effective Date” means September 18, 2020.

“Future CTV Applications” means, with respect to any Internet connected television platform on which WM Direct has not made HBO Max available to the public as of the Effective Date, the most recently released version of the WM Direct owned and controlled application, if any, providing end user access to HBO Max on such platform.

“HBO GO” means the broadband complement to the HBO service known as of Launch as “HBO GO”, as such service may be rebranded during the Term.

“HBO Max” means the WM Direct owned and controlled video distribution platform known as of Launch as “HBO Max”, as such platform may be rebranded during the Term, delivered solely via the Internet or other open signal path for viewing content by individuals with a registered account that are authorized by WM Direct (directly or indirectly) to access, and subscribe to access, such platform within the United States.

“HBO NOW” means the standalone broadband Internet video service known as of Launch as “HBO NOW”, as such service may be rebranded during the Term.

“Launch” means May 27, 2020.

“Licensed Programming” means all programming made available on HBO Max that is not wholly owned by WM Direct or HBO.

“Mobile Applications” means the most recently released version of the WM Direct owned and controlled application providing end user access to HBO Max on iOS and Android mobile devices.

“Original Live Programming” means all live programming made available on HBO Max, if any, that is wholly owned by WM Direct or HBO.

“Original Near-live Programming” means reality TV, news/sports magazines and other programming made available on HBO Max that is wholly owned by WM Direct or HBO for which the period of time from production to distribution is materially shorter as compared to traditional scripted programming.

“Original Programming” refers to all programming made available on HBO Max that is wholly owned by WM Direct or HBO.

“Screen Reader(s)” refers to software that enables individuals who have vision loss to operate computers, smart phones, TVs, and other devices by converting the text displayed graphically on the screen into audible, synthesized speech or outputting that information on a digital braille display.

“WCAG 2.1” means the World Wide Web Consortium’s Web Content Accessibility Guidelines version 2.1, Level AA criteria that affect users with vision disabilities.

“Website” means the WM Direct owned and controlled website providing end user access to HBO Max via Internet web browser, available as of the Effective Date at www.play.hbomax.com.

3 PROVISION OF AUDIO DESCRIPTION

3.1 New Original Programming

WM Direct will ensure that AD is created for all Original Programming that enters post-production after Launch. WM Direct will make AD available for Original Programming on the date the applicable program initially becomes available for streaming on HBO Max, with the exception of Original Live Programming and Original Near-live Programming, for which WM Direct will make AD available within fourteen (14) days of the date on which the applicable program initially becomes available for streaming on HBO Max. Notwithstanding the foregoing, this Agreement does not require WM Direct to make any AD available prior to the applicable AD Availability Date.

3.2 Minimum AD Hours

Within ten (10) months of Launch, WM Direct will ensure that at least one thousand five hundred (1,500) hours of programming, in total, are available on HBO Max with AD.

Within twenty-two (22) months of Launch, WM Direct will ensure that at least three thousand (3,000) hours of programming, in total, are available on HBO Max with AD.

Within thirty-four (34) months of Launch, WM Direct will ensure that at least six thousand (6,000) hours of programming, in total, are available on HBO Max with AD.

Claimants may communicate to WM Direct their preferences with respect to prioritizing the programs for which WM Direct makes AD available. WM Direct will consider these preferences in good faith.

3.3 Licensed Programming

Absent exceptional circumstances, in the course of contract negotiations for the acquisition of Licensed Programming commencing after Launch, WM Direct or HBO, as applicable, will request from licensors any existing versions of acquired assets having AD that are in the applicable licensor's possession or control.

4 STREAMING/DISCOVERY OF AD-ENABLED ASSETS

4.1 AD Functionality and Browsing

By the AD Availability Date, the Website, Mobile Applications and Connected TV Applications will have a control to activate and deactivate AD and a library of audio described programming that is browsable by any genre, sub-genre, and all browsing categories otherwise made available to the general public.

4.2 AD Filtering

Within sixteen (16) months of Launch, WM Direct will make available the ability to filter general browsing categories and subcategories according to AD availability on the Website,

Mobile Applications, and Connected TV Applications.

4.3 AD on Downloaded Programs

By the AD Availability Date, WM Direct will make AD available to download on any program for which WM Direct has made AD available to stream on HBO Max, solely to the extent WM Direct makes such program available for download generally.

5 ACCESSIBILITY OF HBO MAX

At such time as WM Direct releases any new version of a Website, Mobile Application, Connected TV Application, or Future CTV Application, WM Direct agrees to include in such release any update designed to improve accessibility that, in WM Direct's sole discretion, is ready for distribution to the public (i.e., accessibility improvements will be released incrementally throughout the Term rather than intentionally withheld until the outside dates for completion set forth in this Section 5). WM Direct will notify Claimants' Counsel of these updates pursuant to Section 7.2.

5.1 Platform Accessibility

Within sixteen (16) months of Launch, WM Direct shall ensure that Website, Mobile Applications, and Connected TV Applications are accessible to individuals using screen-reading technology with regard to the following features (the "Specified Features"), to the extent such features are available to sighted users:

- a) Account management (e.g. membership sign up, log in/out, profile creation and modification, managing notifications, ad personalization, payment methods);
- b) Access to privacy policies, terms of use, and other documentation regarding contractual relationships;
- c) Searching and browsing all available streaming content;
- d) Filtering content;
- e) Accessing all synopses, cast lists, reviews, and other such information for videos;
- f) Selecting specific videos, including browsing and selecting episodes within a series;
- g) Help and customer assistance features;
- h) Video player controls; and
- i) Watchlist.

5.2 WCAG 2.1 Conformance Timelines for Specific Functionalities

5.2.1 AD Functionality

WM Direct shall ensure that, with respect to each of the Website, Mobile Applications and Connected TV Applications, (i) the features described in Sections 4.1 and 4.3 above substantially comply with WCAG 2.1 by the AD Availability Date; and (ii) the features described in Section 4.2 substantially comply with WCAG 2.1 within sixteen (16) months of Launch.

5.2.2 Contrast, Color and Magnification

WM Direct shall ensure that, with respect to each of the Website, Mobile Applications, and Connected TV Applications, the Specified Features will continue to substantially comply with WCAG 2.1 criteria related to contrast and color throughout the Term.

WM Direct shall ensure that, with respect to each of the Website, Mobile Applications, and Connected TV Applications other than for PlayStation 4, the Specified Features will continue to substantially comply with WCAG 2.1 criteria related to magnification throughout the Term.

5.2.3 Screen Reader Compatibility

WM Direct shall ensure that, with respect to the Connected TV Application for AT&T TV Osprey, the Specified Features will continue to substantially comply with WCAG 2.1 criteria applicable to compatibility with Screen Readers throughout the Term.

WM Direct shall ensure that, with respect to the Website and Mobile Applications on Android, the Specified Features will substantially comply with WCAG 2.1 criteria applicable to compatibility with Screen Readers within ten (10) months of Launch.

WM Direct shall ensure that, with respect to Mobile Applications on iOS and Connected TV Applications other than for PlayStation 4, the Specified Features will substantially comply with WCAG 2.1 criteria applicable to compatibility with Screen Readers within sixteen (16) months of Launch.

5.2.4 Keyboard Control

WM Direct shall ensure that, with respect to the Website and Mobile Applications, the Specified Features will substantially comply with WCAG 2.1 criteria related to navigating on-screen elements with a keyboard within sixteen (16) months of Launch.

5.2.5 Future CTV Applications

WM Direct will ensure that, with respect to any Future CTV Application distributed by WM Direct during the Term, (i) the features described in Sections 4.1-4.3 will be made available; and (ii) the Specified Features will substantially comply with WCAG 2.1, in each case as soon as reasonably practicable.

5.2.6 Features Added After Launch

WM Direct will ensure that, with respect to the Website, Mobile Applications, Connected TV Applications, and Future CTV Applications, HBO Max features other than Specified Features that are made available by WM Direct to the general public after Launch (“New Features”) will substantially comply with WCAG 2.1 as soon as reasonably practicable.

5.3 Access-Related Policies and Procedures

Within sixteen (16) months of Launch, WM Direct shall implement written policies and procedures for ensuring that:

- a) prior to release, all updates to Specified Features or to New Features that have previously been brought into compliance with WCAG 2.1 (pursuant to Section 5.2.6) substantially comply with WCAG 2.1 and are tested for usability by a blind Screen Reader user or a person certified in testing using Screen Readers;
- b) Screen Reader accessibility barriers reported by users affecting the features described in Sections 4.1-4.3 or Specified Features are documented and promptly addressed; and
- c) identified bugs that either cause nonconformance with WCAG 2.1 or result in Screen Reader usability barriers are fixed in a manner consistent with equivalent losses of function unrelated to accessibility.

WM Direct will provide these policies and procedures to Claimants’ Counsel for review prior to implementation. Claimants’ Counsel may provide feedback within two (2) weeks of receiving the materials, which WM Direct will consider implementing in good faith. Claimants’ Counsel will have a reasonable opportunity to discuss with WM Direct any feedback that it declines to implement.

6 CUSTOMER ASSISTANCE

6.1 Customer Service Training

Within nine (9) months of Launch, WM Direct shall ensure that all customer service representatives providing services to HBO Max end users have received (or, with respect to such representatives who commence providing services thereafter, will receive) general training on awareness of and sensitivity toward blind and low vision customers.

Within twelve (12) months of Launch, WM Direct shall ensure that a training program has been developed and implemented specifically for customer service representatives providing services to HBO Max end users with disabilities on how to assist Screen Reader users who experience Screen Reader access and Audio Description barriers.

WM Direct will provide materials associated with these trainings to Claimants’ Counsel for review prior to implementation. Claimants’ Counsel may provide feedback within two (2) weeks of receiving the training materials, which WM Direct will consider implementing in good faith. Claimants’ Counsel will have a reasonable opportunity to discuss with WM Direct any feedback

that it declines to implement.

6.2 Accessibility Page

Within nine (9) months of Launch, WM Direct will provide an “Accessibility” webpage on the Website that contains information for the visually impaired, including instructions for reporting Screen Reader accessibility barriers to WM Direct, and will provide a link to such webpage or make the same information available via the Mobile Applications and Connected TV Applications.

7 MONITORING

7.1 Updates on New Audio Described Programs

Beginning twelve (12) months after Launch, WM Direct will provide ACB and Claimants’ Counsel a quarterly written update on programs for which AD was added in the prior quarter.

7.2 Updates on Incremental Accessibility Improvements

Beginning six (6) months after Launch and for eighteen (18) months thereafter, WM Direct will provide Claimants’ Counsel a written update every six (6) months on any incremental accessibility improvements made in connection with any version of a Website, Mobile Application, Connected TV Application, or Future CTV Application released in the prior six (6) months in accordance with Section 5. Such update shall include the scope of the improvement(s) and the platform(s) affected.

7.3 Reported Accessibility Barriers

Beginning twelve (12) months after Launch, and every six (6) months thereafter, WM Direct shall provide Claimants’ Counsel a list of Screen Reader accessibility related barriers reported in the preceding six (6) months to customer service representatives providing services to HBO Max end users or via such other reporting process provided on the “Accessibility” webpage described in Section 6.2 or via the Twitter handle @hbomaxhelp. The list will include the date the barrier was reported, a description of the reported barrier, and WM Direct’s response thereto.

7.4 Teleconferences

After the submission of any report described in Sections 7.1, 7.2 or 7.3, upon Claimants’ request, WM Direct and Claimants will hold a teleconference at a mutually convenient time.

7.5 Sustainability Plan

Three (3) months prior to expiration of the Term, or at such other time as the Parties mutually agree, WM Direct shall provide Claimants a “Sustainability Plan” explaining the actions WM Direct intends to take in order to sustain compliance with WCAG 2.1 beyond the Term. Claimants will provide feedback within two (2) weeks of receipt, which WM Direct will consider implementing in good faith. Claimants’ Counsel will have a reasonable opportunity to discuss with WM Direct any feedback that it declines to implement.

8 DISPUTE RESOLUTION

The Parties agree that they will work cooperatively to resolve any issues and/or concerns regarding the Parties' respective obligations under this Agreement. Accordingly, the Parties agree that any such issues, concerns, or disputes shall be put in writing and responded to in writing by the other Party within thirty (30) days of receipt. The Parties will meet and confer in a good faith effort to resolve any dispute for a period of at least sixty (60) days from the date of written notice before the commencement of any enforcement action.

9 ADDITIONAL PROVISIONS

9.1 Term of Agreement

This Settlement Agreement shall commence on the Effective Date and continue in force until three (3) years after the Effective Date ("Term"); provided, that any provision that is expressly stated to survive expiration of this Settlement Agreement shall continue in force beyond the Term unless and until the Parties otherwise agree pursuant to a separate writing.

9.2 HBO GO & HBO NOW

During the Term, Claimants agree not to file any civil lawsuit or administrative complaint regarding the issues set forth in Claimants' February 19, 2019 letter to HBO regarding HBO GO and HBO NOW.

9.3 Confidential Rider

The Parties hereby incorporate into this Agreement the Confidential Rider to Settlement Agreement and Release by and among the Parties, dated as of the Effective Date (the "Confidential Rider").

9.4 Entire Agreement; Amendment

This Agreement and the Confidential Rider constitute the entire agreement of the Parties with respect to the subject matters discussed herein, and supersede all prior or contemporaneous discussions, communications, or agreements, expressed or implied, written or oral, by or between the Parties. This Agreement and the Confidential Rider cannot be amended without the written and signed approval of all Parties.

9.5 Headings

The section headings in this Agreement are for the Parties' convenience and shall not be deemed a part of the various terms and provisions of this Agreement, nor used to limit the construction thereof.

9.6 Discontinued Applications

Notwithstanding anything to the contrary herein, the obligations set forth in this Agreement shall immediately cease with respect to any application, device or other means of distribution on

which WM Direct ceases to make HBO Max available or for which WM Direct announces the discontinuation of future version releases or support (i.e., applications, devices or other means of distribution that are “sunset” as that term is commonly used in the industry).

9.7 Unavoidable Circumstances

Any failure to meet obligations with respect to timing set forth in this Agreement due to circumstances beyond WM Direct’s or its affiliates’ reasonable control shall not be considered a breach. Without limiting the generality of the foregoing, in the event that any subcontractor utilized by WM Direct to provide AD is unable to provide AD in the regular course of its business as needed in order for WM Direct to satisfy any of its obligations hereunder with respect to providing AD, WM Direct’s failure to meet such obligation will not be considered a breach of this Agreement; provided, that WM Direct provides Claimants’ Counsel with reasonable notice of such event and takes commercially reasonable steps to mitigate.

9.8 Counterparts

This Agreement may be executed in one or more counterparts, and authentic facsimile signatures or electronic signatures shall be deemed to be original signatures for all purposes. All executed counterparts, and each of them, shall be deemed to be one and the same instrument.

9.9 Binding on Successors; Assignment

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Claimants are prohibited from assigning this Agreement, in whole or in part, without the prior written consent of WM Direct. WM Direct may assign any of its rights, or delegate any of its duties, or both, in whole or in part under this Agreement or the Confidential Rider to any affiliate of WM Direct without Claimants’ consent. WM Direct shall notify Claimants in writing within two (2) business days of any such assignment, identifying the affiliate and the rights and/or duties assigned. Any purported assignment in violation of this Section 9.9 shall be null and void.

9.10 Waiver; Severability

No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of such provision or any other provisions hereof and no waiver shall be effective unless made in writing. The paragraphs and provisions of this Agreement are severable. In the event that any provision of this Agreement shall be determined to be illegal or otherwise unenforceable, such provision shall be severed and the balance of the Agreement shall continue in full force and effect.

9.11 No Admission of Liability

This Agreement is the result of a compromise and does not in any way constitute an admission of liability or any wrongdoing by WM Direct or HBO. The Parties agree, covenant, and represent that no action taken by WM Direct or HBO relating to this Agreement shall be construed as an admission of liability, any and all such liability being expressly denied.

9.12 Release of Claims Relating to HBO Max

In consideration for the promises, commitments and undertakings set forth in the Agreement and the Confidential Rider, Claimants and their respective heirs, executors, predecessors, successors, assigns, transferees and agents (collectively “Releasors”) release and forever discharge WarnerMedia Direct, LLC and each of its parents, subsidiaries, and affiliates, and their respective predecessors, successors, successor owners, assigns, agents, directors, officers, employees, investors, shareholders, insurers, representatives, and attorneys (strictly in their capacities as such) (collectively, “Releasees”), from and against all actions, causes of action, claims, suits, debts, damages, judgments, liabilities, and demands, whether known or unknown, relating to the accessibility for blind or visually-impaired individuals of any of the services or technologies (*e.g.*, mobile apps, websites, or connected TV applications) Releasees provide to the public in connection with HBO Max, that Releasors now have or may have had, or hereafter claim to have, on behalf of themselves or any other person or entity, against Releasees at any time before and including the Effective Date of the Agreement (“Released Claims”).

Claimants hereby expressly and knowingly waive and relinquish any and all rights that they have or might have relating to the Released Claims under California Civil Code § 1542 (and under other statutes or common law principles of similar effect) which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

This Section 9.12 shall survive expiration of the Settlement Agreement.

9.13 Governing Law

This Agreement shall in all respects be governed and controlled by the laws of the State of New York applicable to agreements executed and to be performed entirely therein, without regard to any choice of law principles that would require application of the laws of another jurisdiction.

9.14 Power and Authority

Each person executing this Agreement and the Confidential Rider warrants and represents that he or she has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to this Agreement to effectuate its terms.

[Signature Page Follows]

[Signature Page (1 of 1) for Settlement Agreement and Release]

Date: 9/22/2020, 2020

AMERICAN COUNCIL OF THE BLIND

DocuSigned by: Kim Charlson
By: Kim Charlson, Immediate Past President

Date: 9/22/2020, 2020

BAY STATE COUNCIL OF THE BLIND

DocuSigned by: Brian Charlson
By: Brian Charlson, President

Date: 9/22/2020, 2020

DocuSigned by: Kim Charlson
By: Kim Charlson

Date: 9/22/2020, 2020

DocuSigned by: Brian Charlson
By: Brian Charlson

Date: 9/24/2020, 2020

WARNERMEDIA DIRECT, LLC

DocuSigned by: Rachel Miller, Senior Vice President
By: Rachel Miller, Senior Vice President
Print Name: Rachel Miller, Senior Vice President
Title: Vice

Date: 9/22/2020, 2020

HOME BOX OFFICE, INC.

DocuSigned by: Kathy Styponias, Executive Vice President
By: Kathy Styponias, Executive Vice President
Print Name: Kathy Styponias, Executive Vice President
Title: evp