

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Closed Captioning and Video)
Description of Video Programming)

MM Docket No. 95-176

REPLY COMMENTS OF THE WEATHER CHANNEL

Michael H. Hammer
Michael F. Finn
Jennifer L. Desmond

WILLKIE FARR & GALLAGHER
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

March 31, 1997

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The Weather Channel hereby submits its reply comments in the above-captioned proceeding.¹

I. INTRODUCTION.

In its comments, The Weather Channel demonstrated that it is qualified for an exemption from the closed captioning requirement because:

- its programming is intensely textual and graphic and, therefore, already is fully accessible to the hearing impaired;
- in particular, all local and emergency weather programming is conveyed entirely in textual form, so there is no health and safety concern that would justify captioning; and
- the economic burden of close captioning its 24-hour, live and unscripted programming clearly outweighs the minimal benefits that captioning would have for the hearing impaired.

Several commenters for the deaf and hearing impaired supported the closed captioning of weather programming. However,

¹ In the Matter of Closed Captioning and Video Description of Video Programming, MM Docket No. 95-176, *Notice of Proposed Rulemaking* (released January 17, 1997) ("NPRM").

their comments were directed towards the weather portion of local newscasts and do not take into consideration the distinguishing characteristics of The Weather Channel. In fact, as demonstrated below, The Weather Channel is fundamentally different than the weather programming of local newscasts. Therefore, the analysis of weather programming submitted by the hearing impaired community does not justify denying an exemption to the captioning rules for The Weather Channel. Rather, The Weather Channel should be granted an exemption, either in its individual capacity or as part of a class of "primarily textual" services.

II. COMMENTS FAVORING THE CLOSE CAPTIONING OF THE WEATHER PORTION OF LOCAL NEWSCASTS ARE INAPPOSITE TO THE WEATHER CHANNEL.

Most commenters favoring the close captioning of weather reports focused on the weather portion of local newscasts. The Weather Channel is clearly distinguishable from these limited time weather segments for the following reasons: (1) all the Weather Channel's local and emergency weather information is entirely textual, so there is no health or safety concern that would justify captioning;² (2) The Weather Channel's national and international programming is supported by extensive graphic information that makes the programming accessible to the hearing impaired;³ and (3) The Weather Channel presents live and

² Attachment A contains examples of The Weather Channel's local weather coverage. Attachment B contains examples of emergency weather bulletins.

³ Attachments C-G contain examples of The Weather Channel's national and international weather programming. As shown in

predominantly unscripted programming twenty four hours per day and therefore cannot utilize less expensive electronic newsroom ("ENR") captioning technologies which some parties have suggested using for the weather segments of local broadcast news.

A. The Weather Channel's Emergency And Local Weather Reports Are Entirely Textual And Thus Fully Accessible To The Hearing Impaired.

Various commenters maintained that weather reporting should be close captioned because of its importance to health and safety.⁴ As shown in its comments, The Weather Channel presents all local weather coverage in full screen text and graphics without any audio voice-overs.⁵ The local coverage is presented six times an hour on the "eighth" minute (*i.e.*, :08, :18, :28, etc.). To ensure that its viewers -- including the deaf and hearing impaired -- understand when local weather coverage airs, The Weather Channel broadcasts textual advertisements throughout the day explaining that local coverage is presented on the "eights."

those attachments, captioning will "black out" significant weather information.

⁴ See, e.g., National Association of the Deaf Comments at 17; Association of Late-Deafened Adults Comments at 6; Captivision Comments at 8; Joan Cassidy Comments at 4; Coalition of Protection and Advocacy Comments at 8; Consumer Action Network Comments at 9; Kaleidoscope Television Comments at 14 (emergency weather news must be stenocaptioned); League for the Hard of Hearing Comments at 9; Massachusetts Assistive Technology Partnership Comments at 4; Self Help for Hard of Hearing Comments at 8.

⁵ See Weather Channel Comments at 12-13. Examples of The Weather Channel's local programming are contained in Attachment A.

Like local weather coverage, all emergency weather bulletins and emergency educational messages are communicated in text and graphics with no audio whatsoever.⁶ Thus, The Weather Channel's emergency and local weather coverage already is fully accessible to the hearing impaired. Stated another way, the health and safety concerns cited by the hearing impaired as a reason for captioning weather programming are inapplicable to The Weather Channel and do not constitute a basis for denying an exemption to the closed captioning rules.

B. Less Expensive Captioning Technologies That May Be Available For Captioning Weather Segments Of Local Newscasts Cannot Be Used For The Weather Channel's Live, Predominantly Unscripted Programming.

Some parties argued that weather programming could be efficiently closed captioned through the use of ENR technology.⁷ However, ENR technology will not work for The Weather Channel.

ENR technology consists of captioning pre-written text as it is placed onto teleprompters for on-air talent.⁸ It is "commonly used for local broadcast stations newscasts" since they utilize

⁶ See id. at 13-14. See also Attachment B to these comments.

⁷ See, e.g., WGBH Comments at 12 (discussing fact that "vast majority of weather reports during local news programs [are] not scripted"); Steve and Jamie Berke Comments at ¶ 83 (supporting ENR captioning of the weather portion of "a local news broadcast"); Captivision Comments at 8; Coalition of Protection and Advocacy Comments at 8 (weather programming can be scripted and placed in a teleprompter); Consumer Action Network Comments at 9 (same); Massachusetts Assistive Technology Partnership Comments at 4 (same).

⁸ See NPRM at ¶ 21; Report at ¶ 44.

written scripts when presenting much of their news and weather.⁹ The Commission has recognized, however, that because of its reliance on written text, ENR cannot be used to caption "unscripted material, such as live reports" since live material "does not appear on the teleprompter[]." ¹⁰

All of The Weather Channel's programming is presented live; more than 95% also is unscripted.¹¹ Thus, ENR technology would be incapable of captioning virtually all of The Weather Channel's programming. Consequently, arguments concerning the use of ENR technology for the weather segments of local newscasts are irrelevant to The Weather Channel.

III. THE SOLE COMMENTER SUPPORTING CLOSE CAPTIONING OF 24-HOUR WEATHER SERVICES FUNDAMENTALLY MISUNDERSTANDS THE NATURE OF THE WEATHER CHANNEL'S PROGRAMMING.

Only a single commenter expressly supported close captioning 24-hour weather services. That commenter, Para Technologies, Inc., fundamentally misunderstands The Weather Channel's programming and the processes and the methods needed to caption live programming. According to Para Technologies, "24 hour weather channels could be captioned in a simplistic manner using inexpensive typists rather than real time stenographers" because

⁹ See NPRM at ¶ 21 (emphasis added); see also Report at ¶ 44.

¹⁰ Id.

¹¹ The Weather Channel uses scripts only to introduce telephone and/or satellite interviewees or to introduce or describe videotapes of weather occurrences. As noted, scripted content consists of less than 5% of The Weather Channel's total programming content.

"much weather programming is repetitive, prepared in advance, and should not require much real time captioning."¹²

As discussed above, The Weather Channel presents live, almost entirely unscripted, programming twenty-four hours a day.¹³ Moreover, its programming is updated continuously throughout the day, with radar and other weather coverage updated every fifteen minutes. Thus, The Weather Channel's programming is neither "prepared in advance" nor "repetitive." Consequently, there are no written news reports for "inexpensive typists" to caption. Furthermore, the Commission already has found that captioning of live, unscripted programming typically requires "a specially trained 'stenocaptioner.'"¹⁴ The Weather Channel, along with many other commenters in this proceeding, offered evidence fully supporting this Commission finding. Thus, the record demonstrates that contrary to Para Technologies' assertion, "inexpensive typists" do not possess the skills necessary to caption live weather programming.

There are also several practical and technical issues which complicate any closed captioning of The Weather Channel's

¹² See Para Technologies Comments at 6.

¹³ See also Weather Channel Comments at 1-2.

¹⁴ See NPRM at ¶ 20. Indeed, the Commission specifically noted that there was a shortage of "stenocaptioners with [the] advanced training" needed to properly caption live, unscripted programming and therefore "quality captioning service may simply not be available." See NPRM at ¶ 113; see also NPRM at ¶ 108 ("Currently, the number of real time captioners is small.").

programming. As recognized by the NPRM, captioning appears on the screen some two to three seconds after the audio actually has been received.¹⁵ Most of The Weather Channel's graphics (maps, charts, etc.) are on-screen for no more than eight to twelve seconds. Thus, at least 25% of the time, the captioning would no longer match the on-screen graphic. For example, assume a three second delay and two images of 12 seconds each. Captioning of the audio associated with the first image would not cover the first three seconds of that image (i.e., 25% -- 3 divided by 12) and would overlap with the first three seconds of the second image. Because this mismatched cycle would continue, hearing impaired viewers would be constantly confused. Additionally, as pointed out in The Weather Channel's comments, it is unclear whether delayed data from captioning can be integrated into The Weather Channel's real time system and, in any event, such integration would impose substantial costs.¹⁶

¹⁵ See NPRM at ¶ 20.

¹⁶ See Weather Channel Comments at 10.

IV. CONCLUSION.

For the reasons stated above and in The Weather Channel's initial comments, the Commission should use this proceeding to grant The Weather Channel a closed caption exemption, either as an individual service or as part of the "primarily textual" class.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michael H. Hammer", is written over a horizontal line.

Michael H. Hammer
Michael F. Finn
Jennifer L. Desmond

WILLKIE FARR & GALLAGHER
Three Lafayette Centre
1155 21st Street, N.W. Suite 600
Washington, D.C. 20036

Attorneys for The Weather Channel

March 31, 1997

ATTACHMENT A
Local Weather Displays

The Weather Star[®] Evolution

Weather Star III

Forecast Across The Region

CITY	WEATHER	HI	LO
Birmingham	RAIN	70	42
Daytona Beach	P CLOUDY	84	65
Jacksonville	SHOWERS	82	64
Key West	P CLOUDY	83	72
Savannah	SHOWERS	77	61
Tallahassee	T SHOWERS	77	66
* Palm Beach	P CLOUDY	85	66

FRID NOV 13 11:57:10 AM
on sale! Harmon Sports, 10 Main St

Weather Star 4000

THE WEATHER CHANNEL Santa Monica Area 11:28:05 PM
ESTIMATED TEMPS WED APR 14

8:00	5:00	2:00
		
Sunny	Partly Cloudy	Partly Cloudy
50 74	49 71	53 71

CONDITIONS AT LOS ANGELES INT'L

Weather Star XL

Currently 12:32:35 PM
Wed Jan 12

NEW ORLEANS - LAKEFRONT AIRPORT

Humidity	89%	 Partly Cloudy 48°
Pressure	30.17 S	
Wind	NE 17	
Gusts	23 mph	
Wind Chill	31°	

CURRENTLY AT LAKEFRONT AIRPORT
Dewpoint: 45°

THE WEATHER CHANNEL

Weather Star XL

Tides 12:32:35 PM
Wed Feb 12

LOCATION	HIGH	LOW
Empire Jetty	11:03 pm Wed	5:40 am Thu
	12:26 pm Thu	9:32 pm Thu
Shell Beach Lake Borge	7:09 pm Wed	11:20 pm Wed
	5:12 am Thu	12:25 pm Thu
SUNRISE	6:44 am	SUNSET: 5:46 pm

CURRENTLY AT LAKEFRONT AIRPORT
HUMIDITY: 89%

THE WEATHER CHANNEL

ATTACHMENT B

Emergency Bulletins
Full Screen and Overlay
At Bottom 1/3

SEVERE THUNDERSTORM WARNING
NATIONAL WEATHER SERVICE TUPELO MS
209 PM CDT MON MAY 10 1998

THE NATIONAL WEATHER SERVICE IN
TUPELO HAS ISSUED A SEVERE
THUNDERSTORM WARNING EFFECTIVE
UNTIL 215 PM CDT FOR PEOPLE IN THE
FOLLOWING LOCATION.

MON MAY 10

3:10:24 PM



OF UNION COUNTY. SOME CITIES IN THE PATH

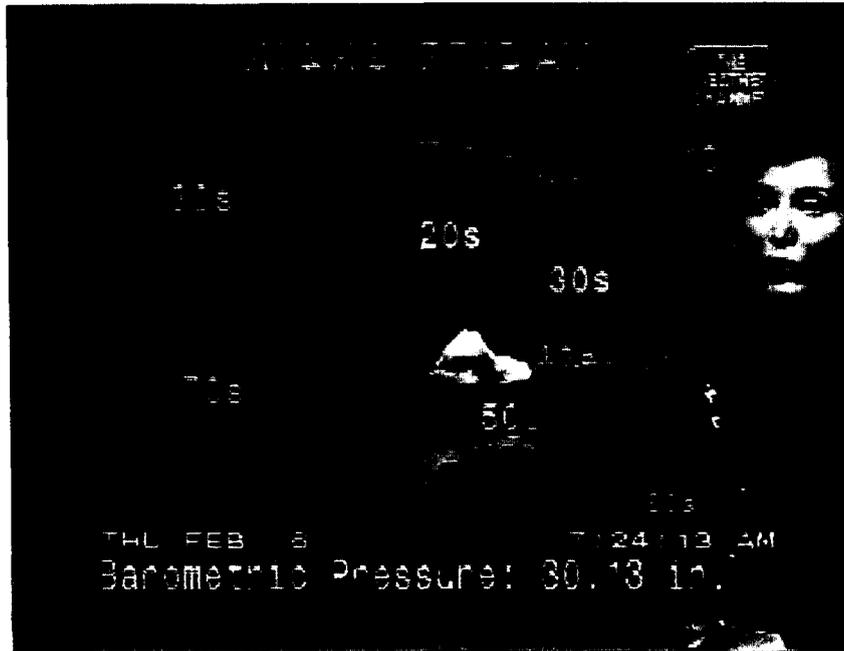
ATTACHMENT C
National Temperature Display

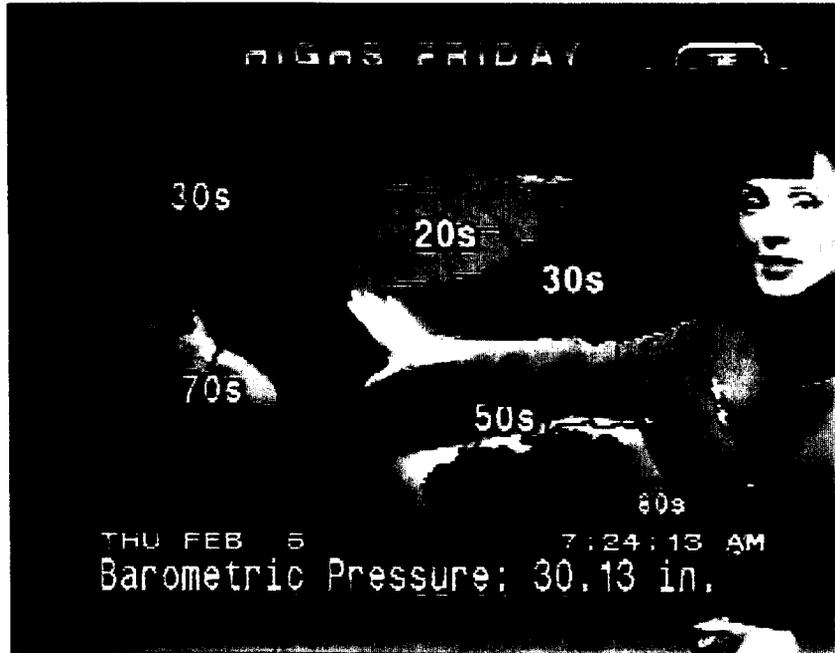




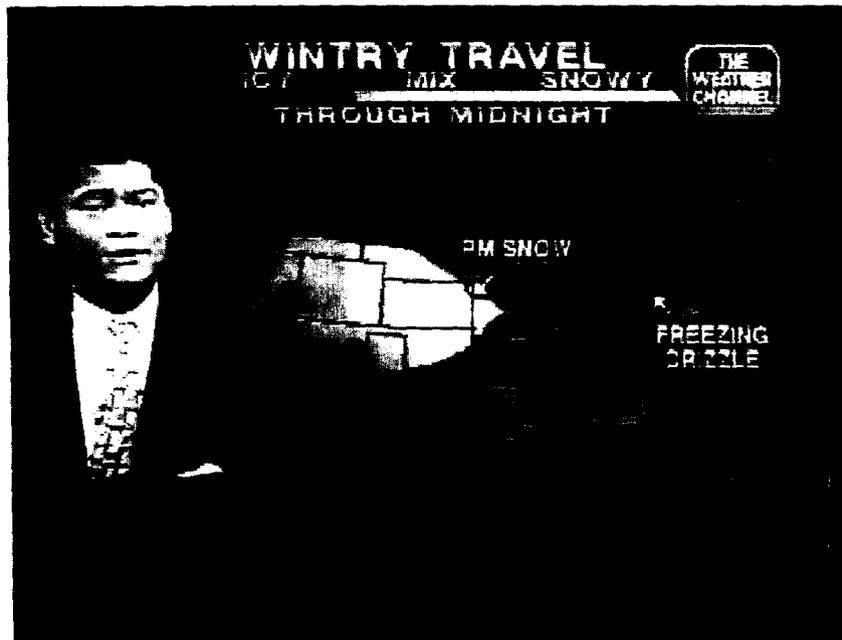
ATTACHMENT D

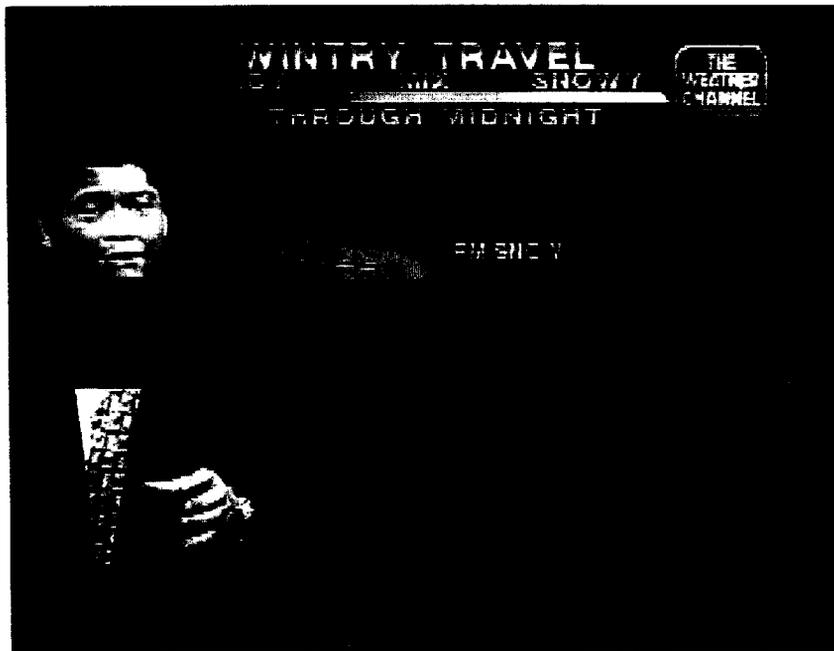
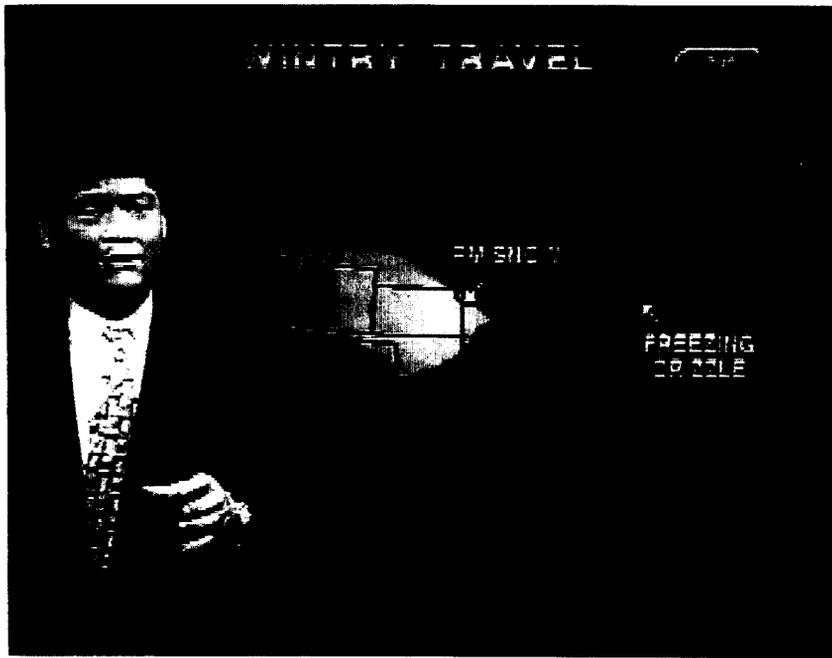
**National Temperature Display
with Local Weather Overlay At
Bottom 1/3**





ATTACHMENT E
Winter Travel Conditions





ATTACHMENT F
National Precipitation Display

