ABC, Inc.

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Roger Goodspeed
Senior General Attorney
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February 25, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Dear Ms. Salas:

On behalf of ABC, Inc., transmitted herewith for filing with the Commission are an original and five copies of its Comments in MM Docket No. 95-176.

If there are any questions in connection with the foregoing, please contact the undersigned.

Sincerely,

Roger Goodspeed

RG/ak
Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Closed Captioning and Video Description of Video Programming	)	
	)	MM Docket No. 95-176
Implementation of Section 305 of the Telecommunications Act of 1996	)	
	)	
Video Programming Accessibility	)	

COMMENTS OF ABC, INC.

Sam Antar
Vice President, Law & Regulation

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ABC, Inc.
77 West 66th Street
New York, New York 10023

Counsel for ABC, Inc.

February 25, 1998

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In the Matter of	)	
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To: The Commission

COMMENTS OF ABC, INC.

ABC, Inc. ("ABC"), submits herewith its Comments in response to the Further Notice of Proposed Rule Making ("Notice") in the above-entitled proceeding.[1] ABC owns and operates the ABC Television Network and ten television broadcast stations.

I. Introduction & Summary

Television broadcasters in general have a long and noteworthy record of providing accurate, timely emergency information to the public to further the safety of life and property. ABC agrees with the Commission's objective to insure that this emergency information is accessible by viewers with hearing disabilities.

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[1] MM Docket No. 95-176, Further Notice of Proposed Rulemaking, FCC 98-3 (released January 14, 1998).

In its Notice, the Commission recognizes that there are two ways the objective it seeks can be accomplished -- through closed captioning or through visual display.[2] We believe that broadcasters should be given discretion to choose the method to be used or to combine both methods so long as the end result is that emergency information that is of timely decisional value relating to health and safety is communicated to the hearing impaired audience. The Commission should make the appropriate changes to its rules to give broadcasters this discretion.

The Commission requests comment on whether it should adopt a mandatory real-time closed-captioning requirement for all emergency information. We believe such a requirement would impose an undue burden on stations. It would mean that every broadcast station must have one or more live captioners on staff or on call 24 hours a day. Just six months ago in the Report & Order adopting its closed-captioning rules, the Commission decided to permit the use of ENR captioning as opposed to real-time captioning. In doing so, the Commission expressed doubt as to the availability of a sufficient number of real-time captioners and recognized that a real-time captioning requirement could impose an undue burden on stations.[3] To our knowledge, there has been no material change in

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[2]See Notice, pars. 7,14.

[3]Report and Order, MM Docket No. 75-'76, par. 84 (released Aug. 22, 1997) ("Report and Order").

circumstances in the intervening period sufficient to support adopting a real-time captioning rule for emergency information.

II. Television Stations Should Have the Discretion to Satisfy the Emergency Information Requirement by Providing Emergency Information Visually

As the Notice acknowledges, Rule 73.1250(h) of the Commission's Rules currently requires television licensees to transmit any emergency information they choose to broadcast "both aurally and visually or only visually."[4] The current rule properly leaves the choice of visual display technique to the broadcasters.[5] The visual display of emergency information can be accomplished in several ways. Text may be "crawled" at the bottom of the screen and during other programming. Text can also be displayed on full-screen billboards or "squeezed back" screens during news or other programs. The Commission has recognized in this proceeding that open captioning satisfies a broadcaster's obligation to ensure access to hearing impaired viewers.[6] In addition, with respect to many emergency conditions -- such as weather or traffic conditions -- substantial information can be displayed graphically with diagrams or maps, alone or with explanatory text.

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[4]47 C.F.R. 1250(h). See Notice, par. 14.

[5]See 47 C.F.R. 1250(h) (including slides, electronic captioning, hand and mechanical printing processes).

[6]Report and Order, par. 83.

We believe the Commission should continue to recognize that visual display is adequate to satisfy its emergency information requirements. In this regard, we believe it would be useful for the Commission to incorporate a definition of emergency information in its rules. The current rule, 73.1250, provides examples of emergency situations but does not contain a definition. The definition we would recommend is contained in the Public Notice the Commission issued in 1990 following the San Francisco earthquake: "information which is of timely decisional value to the public in furthering the safety of life and property."[7]

This proposed definition recognizes that not all information about an emergency is "emergency information." We believe that providing a definition is important because it will encourage broadcasters to better serve the hearing impaired by focussing on synthesizing and presenting essential information. In the case of a major emergency, such as the San Francisco earthquake, a station may choose to provide many hours of continuous coverage of the entire constellation of events that surround an emergency. Much of this coverage -- such as interviews with particular victims, reactions from people in public life, and background stories about earthquakes -- is not of timely decisional value. The proposed definition will encourage stations to attend to the task of synthesizing and summarizing the truly essential information and determining the most effective way of presenting it to the hearing

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[7]Public Notice, Commission Reminds Licensee About Obligations Contained in Section 73.1250(h) of the Commission's Rule, FCC 90-302, 5 FCC Rcd 6260 (1990).

impaired audience.

III. Television Stations Should Have the Discretion to Satisfy the Emergency Information Requirement Exclusively Through Closed-Captioning or Through a Combination of Closed-Captioning and Visual Display

To the hearing impaired viewer, closed-captioning is the equivalent of visual display since the closed-captioned information is openly displayed on the television screen. Therefore, stations that choose to satisfy the emergency information requirement by relying exclusively on closed-captioning should be permitted to do so. In our view, there is no need for duplicative rules when one rule encompassing both open display and closed-captions would fully serve the Commission's purposes.

If, as we suggest, stations are given the discretion on how to satisfy the requirement that emergency information is communicated to the hearing impaired viewer, stations will be encouraged to experiment with a variety of techniques or combination of techniques. Some stations may choose to summarize the essential information and transmit it by closed-captions with periodic updates. Other broadcasters may choose to rely heavily on open crawls and graphic displays. Still other stations may use a combination of visual techniques and closed-captioning. In our judgment, affording broadcasters this discretion will likely lead to a greater variety and better mix of services for the hearing impaired.

IV. The Commission Should Not Impose a Real-Time Captioning Requirement for Emergency Information

To satisfy a real-time captioning requirement, a station would be faced with substantial costs. It would either have to add one or more real-time captioners to staff or contract with a remote captioning service. The cost of installing the necessary equipment to access a remote service is in the range of $10,000 per station. Stations would also bear the recurring cost of maintaining two dedicated phone lines (the price for which varies depending upon the two connection points) as well as the per-occasion cost for the service.

Although ABC's stations, some of which real-time caption one or more of their regular newscasts, have been paying in the range of $120 per hour for regular service, we have been quoted premium rates of $300 per hour with a one-hour minimum for emergency service requested with very little lead time. There is also considerable doubt whether there is sufficient capacity in the industry to supply real-time captioning for all broadcasters making simultaneous requests, particularly in the case of a broad scale emergency or an emergency which occurs with very little warning or one which occurs during overnight hours.[8]

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[8]The Commission relied on the shortage of skilled captioners to cover the new captioning requirements imposed in its 1997 Report and Order in deciding to permit ENR captioning to satisfy the captioning requirement. Report and Order, par. 84. In light of what appears to be a continuing shortage of real-time captioners, a rule mandating real-time captioning could have the unfortunate result of discouraging some broadcasters from airing emergency

CONCLUSION

Broadcasters should be given the discretion to choose the methods by which emergency information is displayed for viewers with hearing disabilities -- through closed-captioning or visual display or some combination of the two. The Commission should make the appropriate changes to its rules to give broadcasters this discretion. The Commission should adopt the following definition of emergency information -- information which is of timely decisional value to the public in furthering the safety of life and property. Providing this definition will encourage broadcasters to better serve the hearing impaired by focussing on synthesizing and summarizing essential information and determining the most effective way of presenting it. The Commission should refrain from adopting a real-time closed-captioning requirement because such a requirement would impose an undue burden on stations and because such a requirement would be impractical given the doubts as to the availability of a sufficient number of real-time captioners.

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information as often or as frequently as they might do otherwise for fear of non-compliance with Commission rules.

Respectfully submitted,

By: _____

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