

ORIGINAL

**Before the
Federal Communications Commission
Washington, D.C. 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

TO: The Commission

**Comments of the National Association of Broadcasters
on the Further Notice of Proposed Rulemaking**

The National Association of Broadcasters ("NAB")¹ submits these comments in response to the Commission's *Further Notice of Proposed Rulemaking* in this proceeding. The *Further Notice* asks whether specific or additional captioning requirements should be adopted for broadcasting emergency information. NAB opposes any such requirement.

As the Commission recognizes (*Further Notice* ¶¶ 8, 14), broadcasters are already required to transmit emergency information in a form that is accessible to deaf or hard of hearing people, and the Commission alludes to no evidence that broadcasters are failing to fulfill their responsibilities in this regard. There is also no basis for changing the Commission's carefully crafted captioning rules, particularly in a way that might have the effect of reducing the amount of emergency information available to the public generally.

¹ NAB is a nonprofit incorporated association of radio and television stations and broadcast networks. NAB serves and represents the American broadcasting industry.

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Providing emergency information is one of the most significant public interest responsibilities of local broadcasters. In times of natural disaster or other emergencies, Americans primarily rely on over-the-air broadcasters for the information they need. Because broadcast service is ubiquitous, free, and less subject to interruption than telephone or wired video delivery services, people in emergencies naturally turn to their local broadcast stations. Broadcasters have always accepted this responsibility, and have often gone to extraordinary lengths to serve their communities during emergencies. Many broadcast stations, particularly those in areas most prone to weather emergencies, have invested millions of dollars in advanced radar systems that can provide more accurate, detailed, and up-to-date information on tornados, potential flood conditions and other weather emergencies than even local officials can obtain.

Section 73.1250(h) of the Commission's Rules requires broadcasters to provide open captioning of emergency information. The rule provides stations great flexibility in providing this information: some use screen "crawls" during regular programming; others may provide visual information during special emergency programming. The Commission alludes to only one instance (*Further Notice* ¶ 15 n.34) where visual emergency information was claimed to be inadequate. That situation, however, involved an EAS alert which may not have been generated by the broadcast station in the first place.² The only other complaints described in the *Further*

² As the Commission is aware, there is a substantial risk under the current EAS rules which permit cable systems and local authorities to override broadcast programming that outdated or inadequate information will be provided to the public. NAB has argued, therefore, that the EAS rules should provide that broadcast signals should not be blocked out or overridden by EAS messages. *See, e.g.*, Comments of the National Association of
(continued...)

Notice are based on the fact that some stations in larger California markets use live captioning for local programming, while stations in Sacramento are alleged to use electronic newsroom (“ENR”) captioning that may not be available during emergency programming. *Further Notice* ¶ 6.

Notably, there is no suggestion that those stations had not complied with the requirement of providing visual warning of the emergency conditions.³

Even if some stations are unable to provide live captioning for emergency programming, emergency information may be easily accessible to deaf viewers. Information about weather emergencies and other natural disasters is frequently displayed visually in a manner that can be interpreted without spoken information. New Doppler radar systems, for example, may show the track of a tornado on a block-by-block basis. Even without captions, this information is available to deaf or hard of hearing viewers.

Thus, there is no basis for the Commission to impose specific captioning requirements for emergency information. Furthermore, doing so would be impractical and would disrupt the Commission’s carefully considered plan for implementing captioning requirements. As the *Further Notice* indicates (¶ 9), the Commission recognized that live captioning resources are limited and need time to develop. The Commission also sought in implementing the Telecommunications Act’s captioning requirements to minimize the burden of captioning on program suppliers in order to avoid loss of programming due to prohibitive captioning costs. As a result,

² (...continued)

Broadcasters, FO Dkt. No. 91-301 (filed Nov. 12, 1993) at 15; “Attention Please,” *Broadcasting*, June 15, 1992, at 44.

³ The Commission should also note that KPWB-TV, Sacramento, recently was recognized by the County of Sacramento for its providing captioned information during the Northern California floods in January 1997. *See* Attachment.

the Commission allowed stations to use ENR captioning, even if that resulted in less than complete captioning for a particular program.

A requirement that all emergency programs be captioned would undermine these decisions. Since emergency programming is only rarely scripted because it is aired on an unplanned and sudden basis, it is impossible to provide ENR captions for such programs since ENR captions are taken from a station's teleprompter script. Thus, if emergency information were subject to a captioning requirement, stations would be required to arrange for live captioning. In response to the Commission's question (*Further Notice* ¶ 9) whether such a requirement would be feasible, the answer is it would not.

Many stations now do not have any live captioning capability, and live captioners may not be available in many communities. Even if live captioning might otherwise be used by or available to stations during regularly scheduled news programs, the nature of emergency programming is that it is unplanned and unscheduled. Thus, a captioning rule for emergency information would require stations would to ensure that captioners be available around the clock. Even if the limited captioning resources would make that possible, it would impose a high burden on stations.⁴

Such a rule would create a disincentive for stations to provide emergency programming. If captioners were unavailable or the expense of live captioning were high, stations might choose

⁴ The proposal of Cal-TVA (*Further Notice* ¶ 15 n.34) that emergency information be provided on a second text channel would require the adoption of an additional technical standard that might only be incorporated into a few television receivers. Since the Commission has already adopted rules that will lead to the captioning of almost all new programming in the near future, the Cal-TVA proposal would not be likely to lead to any faster availability of emergency information and would impose yet another cost on stations and on deaf or hard of hearing consumers.

to restrict emergency information to that which could be included in a screen “crawl” or other visual display. That would result in the loss of valuable emergency information for all viewers. Congress made clear that it wanted to avoid just such a result,⁵ and the importance of that policy of preventing the potential loss of programming for the entire audience should be at its highest with respect to emergency information.

Conclusion

There is no need for the Commission to adopt particularized rules governing captioning of emergency information. The Commission already requires stations to make emergency information available visually, and that rule benefits viewers who have captioning-enabled televisions as well as those who do not. There is no evidence before the Commission that indicates that essential emergency information has not been provided to deaf and hard of hearing viewers. Requiring live captioning of emergency information would be contrary to the Commission’s decision to allow stations to use ENR or other less expensive captioning technologies.

⁵ The House Report on the captioning provisions of the Telecommunications Act told the Commission that, in adopting captioning rules, it should weigh the benefits of providing captioning “against the potential for hindering the production and distribution of the programming.” H.R. REP. NO 204, 104th Cong., 1st Sess. 115 (1995). Because emergency information is unique to each station and cannot be reused, in addition to the fact that it cannot be scheduled, means that the burden of captioning will be relatively high compared to regularly scheduled programs and programs where captioning costs can be amortized over several airings. Thus, the risks of deterring stations from providing emergency programming because of captioning requirements is particularly high.

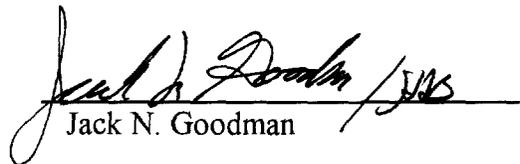
The Commission should allow stations and viewers some experience with the new captioning rules before deciding whether changes to them are needed. The Commission should, therefore, not adopt any additional captioning requirements for emergency information.

Respectfully submitted,

NATIONAL ASSOCIATION OF
BROADCASTERS
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February 25, 1998

Attachment

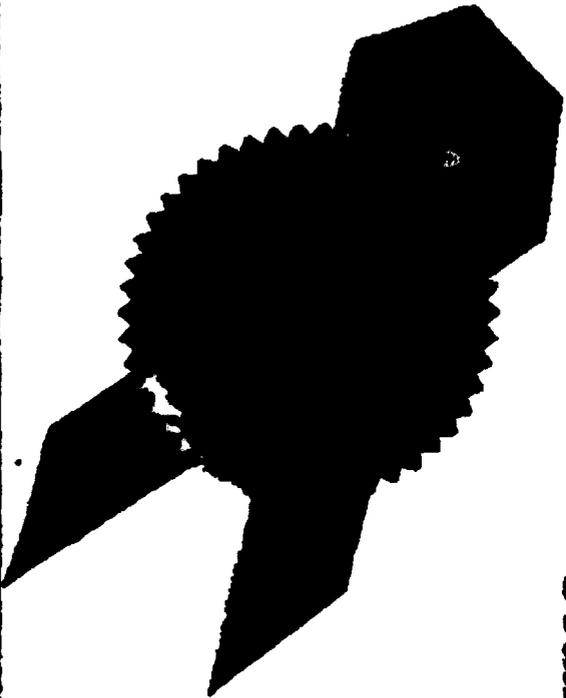
Certificate of Appreciation

IS HEREBY AWARDED TO

CHANNEL 31, KPWB TV

*For providing emergency information captioning to the
deaf and hearing impaired community during the January 1997 floods*

County of Sacramento



Don Notwell

DON NOTWELL, CHAIR,
BOARD OF SUPERVISORS

March 11, 1997
DATE