



Federal Communications Commission
Washington, D.C. 20554

OCT 6 2015

Control No. 15-923

The Honorable Sherrod Brown
United States Senate
801 West Superior Ave.
Suite 1400
Cleveland, Ohio 44113

Dear Senator Brown:

Thank you for your correspondence of September 3, 2015, on behalf of your constituent, Sam Hevener, and his reported difficulties with closed captioning for news programming aired on Channel 8, the local Fox network. As discussed below, the Federal Communications Commission (FCC or Commission) is looking into the issue Mr. Hevener raised.

By way of background, the FCC implements the closed captioning rules of Section 713 of the Telecommunications Act of 1996 (the Act) to meet Congress's goal of making television programming accessible to individuals who are deaf and hard of hearing. Closed captioning is a technology that provides visual text to describe dialogue, background noise, and sound effects in television programming. The FCC's rules require that 100% of new English and Spanish language programming be closed captioned, with limited exceptions. The FCC's rules also require affiliates of the top four major national broadcast television networks located in the top 25 television markets to provide real-time captioning on their live programming, such as news programming. In February 2014, the Commission adopted new caption quality rules to ensure that captions are accurate, synchronous, complete and properly placed. More information about the FCC's closed captioning requirements are located at the FCC's closed captioning website, www.fcc.gov/encyclopedia/closed-captioning-video-programming-television.

Mr. Hevener filed a complaint with the FCC on September 1, 2014, which was processed in accordance with the procedures used by the Disability Rights Office of the FCC's Consumer and Governmental Affairs Bureau. In this connection, the FCC served a Notice of Informal Complaint on Fox Channel 8. As you know, Mr. Hevener's complaint alleged that the quality of captions was so bad (at best gibberish but many missing altogether) that "no closed captioning would be better." On October 20, 2014, Fox Channel 8 replied to the Commission's Notice indicating that it was in compliance with the FCC's requirements to use live captioning (as opposed to an alternate form of teleprompter captioning called electronic newsroom captions), and apologetically stated that captioning errors were of human nature. On November 20, 2014, the FCC responded, by letter, to Mr. Hevener's complaint. In our letter, we noted that while the new rules governing caption quality were adopted in February 2014, these rules would not become effective until the first part of 2015. We, however, advised Mr. Hevener to continue to

monitor the captions; and, notified him that if there continued to be problems with the captioning he could file a new complaint once the rules became effective.

We wish to note as well that a subsequent June 27, 2015 article in the Akron Beacon Journal also raised concerns about the quality of closed captioning on local news programming broadcasts by all four of the major networks in the Cleveland area. In response, we have issued a Notice of Informal Complaint to each of the networks to ascertain their compliance with our caption quality rules. We will follow-up on these Notices and are committed to achieving full compliance with our captioning quality rules by all Cleveland networks.

We appreciate your letter. Please do not hesitate to contact this office if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory Hlibok", written over a circular stamp.

Gregory Hlibok
Chief, Disability Rights Office
Consumer & Governmental Affairs Bureau

Enclosure



Federal Communications Commission
Washington, D.C. 20554

November 20, 2014

Sam Hevener
3583 Everett Rd.
Richfield, OH 44286

RE: FCC Case # IC 14-C00610481 (WJW-TV)

Dear Mr. Hevener:

This letter is in reference to the informal complaint, referenced above, that you filed with the Federal Communications Commission (Commission). The complaint implicates the Commission's rules requiring closed captioning. See Section 713 of the Act, 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1 *et seq.* Pursuant to the informal complaint process set forth in section 79.1(g) of the Commission rules, 47 C.F.R. § 79.1(g), the Commission forwarded your informal complaint to the company named in the complaint.

We have reviewed the informal complaint and the company's response, including any evidence you and the company has provided. Based on this record, we find that the concerns you raised in your complaint have been addressed and, consistent with the complaint provisions of section 79.1(g), no further action is required by the Disability Rights Office.

New rules were approved on February 24, 2014 regulating caption quality on television.

The new rules will address:

- o Accuracy: To be accurate, captions must reflect the dialogue and other sounds and music in the audio track to the fullest extent possible based on the type of the programming, and must identify the speakers.
- o Synchronicity: In order to be synchronous, captions must coincide with their corresponding dialogue and other sounds to the fullest extent possible based on the type of the programming, and must appear at a speed that can be read by viewers.
- o Program Completeness: For a program's captions to be complete, they must run from the beginning to the end of the program, to the fullest extent possible, based on the type of the programming.
- o Placement: For proper placement, captions may not cover up other important on-screen information, such as character faces, featured text, graphics, or other information essential to the understanding or accessing of a program's content.

The rules are required to be implemented by January 1, 2015.

In the February Report and Order, the Commission also adopted measures to ensure that people who are deaf and hard of hearing will have greater access to news programming in their local communities. The measures include requiring broadcasters who are permitted under the Commission's rules to convert teleprompter script into captions to pre-script more of their news programming (electronic newsroom technique, or ENT), including sports, weather, and most late-breaking stories. The pre-scripting requirement will result in captioning for some news programming that previously aired uncaptioned. In addition, the new rules require that crawls and other visual information be used to provide visual access to certain news segments that can't be pre-scripted.



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Washington, D.C. 20554

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The best practices for ENT went into effect June 30, 2014. However, we are still awaiting Office of Management and Budget approval and then publication in the Federal Register before they become enforceable.

If you have any questions about this matter or believe that the issues in your complaint have not been resolved, please do not hesitate to write us at 445 12th Street, SW, Washington, D.C. 20554, send an e-mail to dro@fcc.gov, or call us at 1-888-CALL-FCC (1-888-225-5322).

Sincerely,

Handwritten signature of Susan L. Kimmel, appearing to read "Susan L. Kimmel for SLK".

Susan L. Kimmel
Deputy Chief, Disability Rights Office
Consumer & Governmental Affairs Bureau

923

SHERROD BROWN
OHIO

COMMITTEE:
AGRICULTURE, NUTRITION,
AND FORESTRY

BANKING, HOUSING,
AND URBAN AFFAIRS

FINANCE

VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510 - 3505

CB
Consumer
Disability

September 3, 2015

Mr. Andrew Woelfling
Acting Director, Office of Legislative Affairs
Federal Communications Commission
445 Twelfth St., S.W., Room 8-C453
Washington, DC 20554

Dear Mr. Woelfling:

Enclosed please find a Request for Assistance, correspondence, and documentation from Sam Hevener.

Please review this matter and provide me with your comments. Your response should be directed to my Cleveland office at 801 West Superior Ave., Suite 1400, Cleveland, Ohio 44113 (Phone: 216-522-7272; Fax: 216-522-2239).

Thank you for your attention to this request.

Sincerely,



Sherrod Brown
United States Senator

SB:jp

Enclosure

cc: Sam Hevener



Request for Assistance

SENATOR SHERROD BROWN

JY

NAME SAM HEVENER HOME PHONE (330) 659-3244
 ADDRESS 3583 EVERETT RD CELL PHONE ()
 CITY RICHFIELD WORK PHONE ()
 STATE OH ZIP 44286 COUNTY SUMMIT EMAIL _____
 SS# _____ Medicare# _____ CLAIM#/CASE# _____
 (Provide these numbers only if necessary to investigate your case.)

Dear Senator Brown:

I am seeking your assistance in a personal matter involving the federal government. I hereby authorize your office to request, on my behalf, that the appropriate federal agency or agencies investigate the following: (Use reverse side or additional paper, as needed.)

JOAN PATTERSON:
HELP WITH WJW CHANNEL 8
CLOSED CAPTIONING PER ALL THE INFO
I SENT YOU IN MY ORIGINAL LETTER
ALONG WITH THE AKRON BETACON BOB DYER
REPORT ON HELPING ME THAT I ALSO
SENT. MY FCC COMPLAINT WAS
USELESS.

I further authorize, under the provisions of the Privacy Act of 1974, that the agency or agencies involved have my permission to disclose information from their records about my case or claim to the office of Senator Sherrod Brown.

SIGNATURE [Signature] DATE 8-23-15

Please return this completed form and any other relevant information to:
 Senator Sherrod Brown, 801 West Superior Avenue, Suite 1400, Cleveland, Ohio 44113-1829
 Phone: 216-522-7272 Toll Free: 888-896-6446 (Press 1)
 Fax: 216-522-2239

SENATOR BROWN:

COULD YOU PLEASE HELP ME AND OTHERS WHO ARE HEARING IMPAIRED.

ENCLOSED IS A COPY OF A STORY FROM LAST SUNDAY'S AARON BEACON JOURNAL. IT HAS TO DO WITH THE UNREADABLE CLOSED CAPTIONING ON TV-8 NEWSCASTS. THIS HAS BEEN GOING ON FOR OVER A YEAR.

ENCLOSED ALSO IS A COPY OF A COMPLAINT I FILED WITH THE FCC LAST SEPTEMBER. THE ONLY THING I RECEIVED BACK WAS LETTER FROM A CHANNEL 8 LAWYER IN CHICAGO WHICH SAID THE STATION ONLY MISPELLS A WORD OR TWO NOW AND THEN. I REPLIED TO THE FCC TO JUST CHECK CHANNEL 8'S CLOSED CAPTIONING WITH ANY OF THE OTHER THREE CLEVELAND NEWSCASTS THE NEXT THING I RECEIVED WAS A LETTER FROM THE FCC SAYING THE CASE WAS CLOSED. CHECK OUT THE COMPLAINT # 14-COO610481-0 AND SEE WHAT CHECKING THE FCC DID.

THANK YOU

SAM HEVENER
3583 EVERETT RD
RICHFIELD, OH 44286
330 659.3244



**Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
1270 Fairfield Road
Gettysburg, PA 17325-7245**

J.P

09/16/2014



**SAM HEVENER
3583 EVERETT RD
RICHFIELD, OH 44286**

Dear Consumer:

Re: Complaint # 14-C00610481-1

This is in response to your complaint filed with the Federal Communications Commission (FCC) alleging a violation of the FCC's rules for closed captioning. We have reviewed your complaint. Thank you for filing. The matter is now under review. We may contact you if we need additional information or clarification of your complaint issues.

If - after a thorough review of the facts, allegations and regulations in this matter - a Notice of Informal Complaint (an "NOIC") is sent to the company complained about, that company will have 30 days in which to provide you and the FCC with a response.

If you have further questions, please feel free to visit the CGB website at www.fcc.gov/cgb or call us at 1-888-225-5322.

Sincerely,

Susan Kimmel, Deputy Chief
Disability Rights Office
Consumer & Governmental Affairs Bureau

Continued from page 81

television for people who are deaf and hard of hearing.

"That said, we cannot threshold or on-screen investigation techniques."

The spokesman said people with heads can file complaints here: <http://www.nbc.com/feedback>.

He said, "I'm not a doctor, but I'm a reporter." He said, "I'm not a doctor, but I'm a reporter."

Some of the folks who do the captioning say they're not getting the full portion of the blame. They note that some stations aren't even using human beings.

Bad captioning

Local reporter says stations' mistakes are often made by captioning people and using voice-to-text programs that are inconsistent at best. "Voice technology is not

able to do what it's supposed to do."

"It's not perfect and hard to fix. Community involvement has been the key to making this work."

Yellow Springs, Ohio, is a town of about 10,000 people. It's a town of about 10,000 people. It's a town of about 10,000 people.

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very diligently to fix this, especially with our new corporate ownership. They appreciate and understand the seriousness of this."

Low floor

The fact that many stations believe Channel 8 is using automation proves that some stenographers are still out there.

Gage says certified TV stenographers generally make between \$40 and \$70 an hour, depending on the time of day and whether the stenographer is local or out of state.

Stenographers are in short supply nationally, in part because qualifying is not easy. Stenographer Kaffery says the average certified professional goes to school for three years and eight months and must type 225 words per minute at 97 percent accuracy.

Even when stations are using top-flight stenographers, problems can arise. Because almost all captioning is done remotely, rather than in-studio, glitches with phone lines or Internet connections can burn up the workers.

And some broadcasters simply talk too fast.

Stenographer Gage says trying to keep up with Channel 5's sports anchor Andy Beal, who averages about 300 words a minute, "is like trying to read ads on a NASCAR car when it passes you going 225 mph."

Logfest for

To an outsider, part of the solution seems obvious. Somebody is already typing scripts for the studio teleprompters. Why not hook the closed captioning scripter up with the teleprompter scripter? It's a simple idea, but it's not so simple.

When asked why stations don't do that, Channel 8's Saylor says, "That's what we're working on. There are models out there and we're looking at them."

Saylor says many of the existing problems will continue "until somebody comes up with a better mousetrap."

At this point, the mice are running wild.

Bob Dyer can be reached at 330-996-4160 or bdyer@ohio.com.

He also is on Facebook at www.facebook.com/bobdyer31. Anyone who has seen his show, "I'm Not That Funny,"

Based on four 6 min. newscasts I recorded simultaneously - WKYC (Channel 3), WERTS (Channel 5), WTV (Channel 8) and WOIO (Channel 19) - I feel Yewers would struggle to understand many aspects of most stories.

Channel 8 is clearly the worst, but the others don't have anything to boast about either. As being impartial Cleveland's best reader.

Tom Rouse put in, closed explaining is a disaster.

The FCC has detailed requirements, passed in 1996, among them: "Ideally, they be more fully effective just this year - that fall

under four basic categories: * Captions must match the spoken words and convey background noises and other sounds to the fullest extent possible.

* Captions must coincide with their corresponding spoken words. To the greatest extent possible, and must be displayed on the screen at a speed that can be read by viewers.

* Captions must run throughout the entire program.

* Captions should not block important visual content.

However, one local viewer who is frustrated by Cleveland's captioning wonders just how interested the FCC really is in enforcing its own rules.

Chandra Freestroke was the only woman writing Sam Heveret of Richard last year. The Fox 8 captioning was complete, although I mean, not every word's just purple of font, AVE or all letters.

I filed a complaint with the FCC. A few weeks later I received a copy of a letter a lawyer from Channel 8's Media (Channel 8's lawyer) sent to the FCC saying something like, "We only make a few spelling errors and our staff is constantly reconditioning this explaining for quality."

The only reply I received from the FCC was that the case was closed. My guess is that the FCC never checked any of the Fox 8 newscasts and relied on the letter from Channel 8's lawyer.

The FCC declined to address Heveret's complaint, even though I provided a case number, but did it have anything to my when I asked what is required to trigger FCC action and how a complaint is reviewed.

Comment input plays a

local news.

Based on four 6 pm newscasts I recorded simultaneously -- WYTC (Channel 31) WYUW (Channel 38) and WYOH (Channel 19) -- it appears that the newscasts would survive the Cleveland map aspects of most stories.

Channel 8 is clearly the worst, but the others don't have anything to boast about either. As hearing-impaired Clevelanders, you'll recall Tom Riffe put in a lot of time and money to get Channel 8 on the air.

As the stations' ratings were made them a decade or so ago, it's hard to say how they became fully effective this year -- that fall.

Under four basic categories: Caption must match the spoken words and convey background scenes and other elements of the audio-visual program.

Captions must coincide with the audio. Captions should not include important visual information. However, one local viewer who is frustrated by Cleveland's captioning wonders just how interested the FCC really is in enforcing its own rules.

Channel 8 viewers are the best. They have a history of being the most demanding and sophisticated viewers in the area. Not every viewer is like that, but it's a good sign.

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Please see DVM, 84



Office of U.S. Senator Sherrod Brown

FAX TRANSMISSION

TO: Andrew Woolfing

DATE: 9/3/15

FAX NUMBER: (202) 418-2806

NUMBER OF PAGES, INCLUDING THIS COVER SHEET: 8

FROM:

**John Patterson
U.S. Senator Sherrod Brown
801 West Superior Ave., Suite 1400
Cleveland, Ohio 44113**

John_Patterson@brown.senate.gov

Phone: 216-522-7272

Fax: 216-522-2239

Subject:

Sam Herener