

January 16, 2020 - OFFICIAL NOTICE OF INFORMAL COMPLAINT – FCC Complaint Ticket No. 3695511

The Federal Communications Commission (FCC or Commission) is serving your company with this informal complaint that _____ filed with the Disability Rights Office (DRO). The informal complaint concerns obligations to provide televised emergency information in an accessible manner. We are inquiring into this matter pursuant to sections 713 and 4(i) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. §§ 613, 154(i), and section 79.2 of the Commission's rules, 47 CFR § 79.2.

This Notice of Informal Complaint (Notice or NOIC) directs your company, as the broadcaster or multichannel video programming distributor (MPVD), to respond fully and directly to each and every material allegation raised in the informal complaint. In your response, please provide an explanation of why you believe you are in compliance with controlling law. If your company asserts that the audible emergency information was made accessible through closed captioning, and the complaint concerns the quality of the closed captioning, please include in your response how the closed captions at issue were produced. Closed captions – no matter how they are produced, for example, by the use of the electronic newsroom technique (ENT), where permitted, by a captioning service, or by using automated speech recognition technology – are subject to the FCC's closed captioning quality standards related to accuracy, synchronicity, completeness, and placement. 47 CFR § 79.1(j). If you need to take steps to satisfy the informal complaint and come into compliance, please summarize your proposed actions and the timeframe for completion.

Your response is due no later than thirty (30) days from the date of this Notice.

Please include with your response a recording, such as a DVD or electronic file, of the time(s) and date(s) of the event(s) described in the complaint.

Please submit your response to the Commission by replying to this email or via the FCC Consumer Help Center. Recordings may be sent by U.S. postal mail to the Disability Rights Office, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554. Be sure to verify the complainant's name and the ticket number. In addition, please include the name of a company representative to whom all future correspondence about the complaint should be directed. You are further directed to send a copy of the response to the complainant in the preferred format requested by the consumer, at the same time the response is provided to the Commission. Finally, please retain all records that are or may be pertinent to the allegations raised in the complaint for one year after the date of this Notice, unless otherwise instructed.

Failure to respond to a Commission inquiry is considered a violation of a Commission order and can result in the imposition of fines by the Commission. Under section 503(b) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any of the provisions of the Act, or any rule or order issued by the Commission under the Act, shall be liable for a forfeiture penalty.

The Commission requests that your company provide a thorough response to the issues raised in this complaint, and that it use its best efforts to resolve this complaint in a timely manner. Cursory responses will be rejected. The Commission intends to make consumer complaint data publicly available – in both aggregate and individual form yet consistent with the Commission’s privacy obligations. This data will include how your company has addressed consumer complaints.

If you have any questions regarding this Notice or the informal complaint, please contact DRO at DROcarriersupport@fcc.gov or by calling 202-418-2517. In your message, please include your name, your company’s name, the ticket number, and your specific questions.

February 13, 2020

Sent Via E-Mail

Ms. Sherita Kennedy
Federal Communications Commission
Consumer & Governmental Affairs Bureau
Disability Rights Office
Sherita.Kennedy@fcc.gov

Re: FCC Official Notice of Informal Complaint dated January 16, 2020;
Ticket No. 3695511 (the "NOIC")

Dear Ms. Kennedy:

Gray Television Licensee, LLC, licensee of WBAY ("WBAY" or the "Station"), hereby responds to the informal complaint of the _____, described in the Official Notice of Informal Complaint dated January 16, 2020, forwarded to the Station by the Federal Communications Commission. WBAY is committed to providing the very best service to the community, including visually impaired viewers, and takes all complaints and concerns about its service very seriously.

The complaint references a crawl with weather information at midnight on November 30, 2019 (the "Crawl"). Specifically, this Crawl provided information regarding a Winter Storm Warning, and was triggered by the National Weather Service at approximately 11:03 PM on November 30, 2019. At the time the alert was triggered, the appropriate tones were sounded, and on the secondary audio channel, the Crawl was provided via text to speech technology twice, in compliance with 47 CFR 79.2(b)(ii). We have provided a video which evidences the aural representation of the crawl.¹

Generally speaking, for winter storm warnings such as these, after a crawl runs two times (both visually and aurally), it is standard procedure to turn the crawl off, until any new information is received about the weather event (at which point a new crawl is triggered, along with the requisite tones and secondary audio stream). Depending on the duration of the warning, the Station may also re-issue the same crawl (complete with aural information) later in the hour. However, in an aberration from WBAY's general policy, WBAY left the Crawl up longer than is usual on this particular occasion. In doing so, though the graphics remained, by virtue of the settings on the technology utilized, the aural information did not renew.

¹ McCarthy family – we have provided this response via letter to you as you indicated was your preference. If you would like to request a copy of the video, we will be more than happy to provide to you in a manner that best suits you (email, send a thumb drive, etc.). Please feel free to email me at slavin@wbay.com if that's the case and we will get it out to you right away.

WBAY-TV



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WBAY regrets that the _____ family tuned to WBAY at a time when the information provided on the Crawl was not provided aurally, and we have taken this opportunity to review our best practices with our engineering staff. Happily, we report that we have been able to engineer the text to speech software such that even if a future crawl is left up longer than is typical, upon looping, the tones will re-sound and the aural representation of the information will be repeated. We will also be mindful to, in similar situations, point our viewers and listeners to WBAY's digital multicast channel, WBAY.2, which provides weather information, including information provided aurally, twenty-four hours a day.

For the foregoing reasons, WBAY respectfully requests that the Informal Complaint be dismissed or denied. We thank the _____ family for their viewership and this opportunity to review the ways we can better serve our community. It is an honor to serve Wisconsin and we will continue to strive to be our very best to all viewers.

Please do not hesitate to contact me with any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steven Lavin'.

Steven Lavin
General Manager and Vice President, WBAY

cc: Via Federal Express

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