

August 10, 2012

Received & inspected

AUG 13 2012

FCC Mail Room

Joshua N. Pila  
Senior Counsel

**VIA OVERNIGHT COURIER**

Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**STAMP & RETURN**

ATTN: Susan Kimmel  
Disability Rights Office/CGB

RE: 12-C00400644 (SK)(Estes)(WAVY-TV)

Dear Ms. Kimmel,

Please find attached the response of WAVY Broadcasting, LLC, the licensee of WAVY-TV (Portsmouth, Virginia), to your letter dated July 13, 2012 in the above-captioned matter. Please note as described further therein, WAVY-TV takes its captioning obligations seriously and believes it complied with the Commission's rules in this instance. Should you have any questions about this correspondence, please feel free to contact me directly.

Very truly yours,



Joshua N. Pila

Enclosure: DVD of June 1, 2012 6 p.m. to 11 p.m.

CC (via email, without enclosure): Susan Kimmel  
Sherita Kennedy  
Public Inspection File

Received & inspected

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**Doug Davis**  
President & General Manager  
WAVY/WVBT-TV

doug.davis@wavy.com

300 Wavy Street  
Portsmouth, VA 23704  
757-393-1010  
757-673-5300 fax

August 10, 2012

**VIA OVERNIGHT COURIER**

Brenda Estes  
901 Wolfpack Court  
Virginia Beach, Virginia 23462

RE: Your Captioning Concerns  
12-C00400644 (SK)(Estes)(WAVY-TV)

Dear Ms. Estes,

Ms. Estes, I appreciated visiting with you and your group last year to discuss your observations and concerns related to closed captioning. The FCC forwarded me your concerns about our tornado coverage on Friday June 1 of this year from six p.m. to eleven p.m.

I want to emphasize that your concerns are very important to us and thank you for taking the time to inquire. Before I start responding, I want you to know that if you have any questions after reading this letter, I encourage you to contact me directly at [Doug.Davis@wavy.com](mailto:Doug.Davis@wavy.com).

WAVY-TV, like other small-market broadcasters, relies on the Electronic Newsroom ("ENR") technique to caption its newscasts. When the FCC implemented captioning requirements in 1998, it described ENR like this: "ENR is commonly used for live programming, especially newscasts, and creates captions from a news script computer or teleprompter. Only material that is scripted can be captioned using this technique and, thus, within a program live field reports, breaking news, sports and weather may remain uncaptioned."

While both we and the FCC recognize the limitations of the ENR technique, the FCC allows stations in markets lower than the Top 25 markets to use ENR for newscasts due to the extremely high costs of real-time captioning. The FCC has found that if it required real-time captioning stations in smaller markets would likely stop providing news and information altogether because of the high expense. WAVY-TV therefore complies with the FCC's rules by using ENR for its newscasts.

Even so, we still want to make our programming as accessible as practicable to all of our viewers. As you will see below, we've already taken steps since receiving your letter and plan to take several more to make our programming as accessible as possible.

**ON YOUR SIDE**

To refresh everyone's memories, I want to briefly recount the events of June 1, 2012. On that day, a tornado hit Hampton, Virginia and other severe weather affected our market. WAVY-TV ran a scroll the entire evening announcing tornado warnings, tornado watches, and severe thunderstorm warnings (including locations) throughout all programming.

In addition, we broke into programming in the late hours of prime time to serve our viewers with weather information. We did not break into programming for the entire five hour period that you mention. In any event, almost all of our wall-to-wall coverage consisted of a full-screen map showing locations of storms, including tornado, rain, and hail icons. Our meteorologists frequently zoomed in on particular areas of the maps. Furthermore, our full screen graphics often included a lightning strike counter, listed on-screen the particular times that particular communities could expect severe weather, and showed particular street names to localize weather coverage. We also displayed images from VDOT cameras showing road conditions.

We continued running the scroll and a box immediately over the scroll during our breaking news weather that gave viewers specific instructions on what to do for a tornado (e.g., find an interior room), provided localized warnings issued by weather agencies, and provided other information to our viewing public. This scroll also included particularized information for people in non-foundation-based structures like recreational vehicles.

As you note, the FCC rules do not require us to real-time caption our news programming due to our market size. This coverage did not include real time captioning, although scheduled news portions of the evening included ENR captioning.

Even though we believe that our coverage complied with the FCC's rules, we want to do better. While I am proud of the WAVY-TV newsroom for their weather coverage on June 1, 2012, I understand your concerns about the lack of real-time captioning. Since we received your letter, we will implement the following steps in the hopes of increasing the accessibility of WAVY-TV's news.

- ***Policies and Procedures for Utilizing Unscheduled Captioning Service*** – Our parent company, LIN Media, uses Dynamic Captioning, LLC for unscheduled captioning. We had previously had a single point of contact to engage Dynamic for unscheduled captioning. To enable us to utilize Dynamic on more occasions, we have now empowered and will require each director on our staff to individually engage Dynamic when they believe that unscheduled captioning will benefit viewers. The phone number for Dynamic has been posted at various news duty stations.
- ***Further Accessibility Training***: I have scheduled a training session with our corporate legal department specifically for the WAVY-TV team to brainstorm, question, and further refine our policies and procedures for news accessibility.
- ***Written Materials***: LIN Media's legal department has also recirculated to each member of our newsroom a legal memorandum explaining the FCC's accessibility policies and the company's policies regarding accessibility.
- ***Posting Newsroom Reminders***: We posted reminder posters in the newsroom about accessibility.
- ***News Manager Accountability***: I have instructed my News Director that a core part of the job description of a WAVY-TV news manager is to implement our station's policies on accessibility. Specifically, I have reminded them that the accessibility of programming is a factor that the station will take into account in performance reviews and promotion opportunities.

I want my news managers to understand that our goal is not to do the minimum required by the FCC's rules, but rather to strive above and beyond. That means that I want our viewers to have full access to information orally and visually – not just to comply with rules, but rather because it's the right way to do business as a multimedia content provider.

Going forward, if you have immediate concerns about our captioning, you can contact our captioning hotline at 757-673-7072.

Very truly yours,

A handwritten signature in black ink, appearing to read "Doug Davis", written in a cursive style.

Doug Davis

Vice President/General Manager

CC (*with enclosure*): Susan Kimmel (FCC) / Sherita Kennedy (FCC) (*via email and overnight mail*)