



April 12, 2010

VIA HAND DELIVERY and EMAIL

Cheryl J. King, Deputy Chief
Federal Communications Commission
Disability Rights Office

236 Massachusetts Avenue, NE, Suite 110
Washington, D.C. 20002

**Re: Response to Notice of Informal Complaint
Station WWSI-TV, Atlantic City, New Jersey
10-C00199266-FC
Complaint from Hany Mohamed**

Dear Ms. King:

ZGS Communications, ("ZGS" or "Licensee"), the licensee of WWSI-TV, Atlantic City, New Jersey (the "Station"), hereby responds to the FCC Disability Rights Office Notice of Informal Complaint dated March 12, 2010 (hereinafter "Complaint" or "March 12 Letter"). By its March 12 Letter, the Bureau and Complainant request a response regarding the Closed Captioning 3 (CC3) option that provides English translation to Spanish-language programming. The Complaint specifically requests information about CC3 during the program *El Clon* (8pm -9 pm) on DISH Network channel 8159. The Complaint describes an issue with receiving the CC3, "When I set the closed caption 3 option on my tv, the words are wither missing letter, incomplete, or garbled up".

I. Background

WWSI Telemundo serves viewers in Philadelphia, Atlantic City and Delaware with 100% Spanish-language programming. WWSI-TV is an affiliate of the Telemundo Network and receives the Closed Captioning for both CC1 and CC3 options directly from the Telemundo Network and delivers the signal to DISH Network via a direct dedicated fiber optic line. CC1 is the Spanish-language closed captioning for programming as required by the FCC, and although not required, Telemundo provides English translations to some of its programming via the CC3 option.

II. Discussion

As the Complaint itself notes, WWSI provides two sets of captions, one in Spanish and one in English. Under the Commission's captioning rules, however, it is only the primary audio signal in the language of the target audience, in this case the Spanish-language audio that is required to be captioned. WWSI's signal, both as it is broadcast and as it is delivered by DISH to DISH subscribers, complies fully with this requirement. Closed Captioning Option 1, about which the complainant does not complain, provides Spanish-language captions consistent with the Commission's Rules. Indeed, as the complaint states, "The closed caption 1 function works fine...." Thus, WWSI is in compliance with the Commission's closed captioning rules.

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Closed Captioning Option 3, which is the sole focus of the Complaint, offers additional English-language captions, which are not required by the Commission's Rules and which are wholly superfluous. As the Commission noted in adopting its captioning rules: "...where a program includes a second language soundtrack on its secondary audio programming ("SAP") signal, the second audio signal need not be captioned." *Closed Captioning and Video Description of Video Programming Implementation of Section 305 of the Telecommunications Act of 1996 Video Programming Accessibility*, Report and Order, 13 FCC Rcd 3272 (1997) at paragraph 83. Similarly, in that same order, the Commission permitted subtitles that are available to all viewers to count towards compliance if they are in the language of the target audience, further emphasizing that the captions in the language of the target audience is what determines compliance with the Commission's captioning rules. *Id.*; see also, 47 CFR Section 79.1(e)(2) ("Open captioning or subtitles in the language of the target audience may be used in lieu of closed captioning.").

Accordingly, ZGS believes that WWSI is in full compliance with the Commission's captioning rules for Spanish-language programming. With respect to the issue raised by the Complaint regarding the additional, and entirely optional, English-language captioning occasionally provided on the station's Closed Captioning Option 3 WWSI believes that it was a temporary technical malfunction. As soon as WWSI was aware of the CC3 situation it contacted the DISH Commercial Service Office and reported the issue.

WWSI understands the frustration of the Complainant and assures the Bureau and Hany Mohamed that we value all of our viewers and worked with DISH to resolve the technical malfunction as quickly as possible. It is our understanding that DISH has corrected the issue and the English-language captions (when available) are now being passed through without issue.

Please contact me via phone 703.528.5656 x. 129 or email tballesteros@zgsgroup.com should you have any questions or need additional information regarding this matter.

Respectfully submitted,

Tara Ballesteros
Communications Director

cc: Hany Mohamed (via e-mail)

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