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GARVEY SCHUBERT BARER

ATTORNEYS AT LAW

Please reply to MELODIE A. VIRTUE
mvirtue@gsblaw.com
direct dial: (202) 298-2527

November 7, 2013

Our File No. 22663-00400-66

Susan L. Kimmel, Deputy Chief
Disability Rights Office
Consumer and Governmental Affairs Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

STAMP & RETURN

RECEIVED - FCC

NOV -7 2013

**Federal Communications Commission
Bureau / Office**

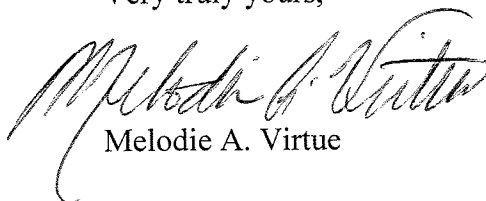
Re: FCC Case Number 13-C00530917 (SK)
Informal Complaint of Ron Bibler

Dear Ms. Kimmel:

On behalf of MMM License II LLC, licensee of KFBB-TV, Great Falls, Montana and Max Media of Montana LLC, a commonly-owned affiliate of the licensee, I hereby transmit its response to the above-captioned informal complaint filed by Mr. Ron Bibler.

Kindly communicate any questions directly with this office.

Very truly yours,



Melodie A. Virtue

MAV:cll
Enclosure

cc: Mr. Ron Bibler (pdf copy via email: ron@biblerfinancial.com)
Ms. Susan L. Kimmel (pdf copy via email: Susan.Kimmel@fcc.gov)
Ms. Sherita Kennedy (pdf copy via email: Sherita.Kennedy@fcc.gov)

MMM License II LLC
900 Laskin Road
Virginia Beach, VA 23451

November 7, 2013

VIA HAND DELIVERY

Susan L. Kimmel, Deputy Chief
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

***Attn: Disability Rights Office,
Consumer and Governmental Affairs Bureau***

Re: Informal Complaint of Ron Bibler
FCC Complaint No. 13-C00530917 (SK)

Dear Ms. Kimmel:

MMM License II LLC, licensee of Station KFBB-TV, Great Falls, Montana ("KFBB"), and Max Media of Montana LLC ("Max Media"), a commonly-owned affiliate of the licensee, hereby jointly respond to the above-referenced informal complaint submitted by Mr. Ron Bibler using the electronic Form 2000C – Disability Access Complaint (the "Complaint"). The Disability Rights Office notified KFBB of the Complaint in an *Official Notice of Informal Complaint*, dated October 24, 2013.

This response will address each of the specific complaints that Mr. Bibler lodged: (1) that Max Media did not provide closed captioning for "at least" two Montana State University ("MSU") football games, (2) that Max Media has been ignoring emails from Mr. Bibler, and (3) that Max Media takes the position that a closed captioning exception applies to MSU football games. Briefly, Max Media recognizes the public interest benefits of closed captioning and has made arrangements to include closed captioning on all college football games it broadcast this season. Unfortunately, technical problems interfered with the delivery of captioning for the two games that Mr. Bibler cited.

I. KFBB's Closed Captioning of Two MSU Games Was Thwarted by Technical Problems.

KFBB broadcasts MSU football games produced by Max Media.¹ Except for the games referenced in this response, all of the games included captioning this season.

¹ Max Media also produced all of the MSU football games last year without any glitches in closed captioning. *Cf.* Complaint at 3, § 4 (Mr. Bibler mistakenly believes a "competitor broadcasted all their games with captions last year.").

The September 21st Game. Mr. Bibler stated that Max Media had “broadcasted without captions for at least two [MSU] games now,”² including the MSU – Stephen F. Austin Lumberjacks football game that aired at 5 PM on September 21, 2013. This game was not closed captioned due to technical difficulties beyond the control of KFBB and Max Media. The broadcasting trucks and crew normally used were not available and a stand-in had to be employed. The substitute truck had never used captioning equipment at the “send” end. Max Media and its contractor, Videolines Mobile Television, took steps to ensure that a closed captioning encoder was delivered in time to caption the football game.³ Although the closed captioning equipment was on site and a transcriber was standing by on the telephone during the game, technical difficulties prevented us from feeding the closed captioning into the broadcast signal. The engineer on site worked on fixing the captioning throughout the entire game but was unable to fix the problem. The attached invoice dated September 22, 2013 shows that Max Media contracted for the closed captioning service and the rental and two-way shipping of a closed caption encoder at a total cost of \$1,612.50.⁴

The September 14th MSU Game. Max Media made prior arrangements for the September 14th MSU game to be closed captioned. As shown in the attached invoice dated September 15, 2013, Videolines billed Max Media \$16,670 for that game, \$562.50 of which was for providing a closed captioning service.⁵ Notwithstanding Mr. Bibler’s attempt to contact the station (discussed in Section II below), KFBB did not receive any reports of problems with the closed captioning in time for the people working on the game to remedy the issue.

Additionally, in the September 28, 2013 MSU game against North Dakota, Max Media experienced a problem during the first hour of the game. That failure occurred because the truck personnel routed the closed-captioning into a monitor instead of the broadcast stream. Therefore, the truck personnel thought they were delivering closed captioning because they could see it on the monitor and realized there was a problem only when our master control notified them that the captioning was not coming through on the broadcast. Our engineer instructed the production personnel on how to correct the feed and it was rectified late in the first quarter.

For the remainder of the football season to date, the closed captioning service has been working as intended and there have been no further outages to our knowledge.

II. KFBB Responds to Email From Viewers, Including Mr. Bibler.

Mr. Bibler complained that Max Media had been “ignoring my emails.”⁶ Upon receiving the complaint forwarded by the FCC, Max Media canvassed our company’s staff to determine whether they had received any correspondence from Mr. Bibler about the lack of captioning for the September games. The only result was an email that Mr. Bibler sent to Maureen Lang on

² *Id.*

³ See Attachment 1 (Discussion between Videolines Media and various KFBB employees regarding the shipment of a closed captioning encoder for the September 21 MSU game).

⁴ Attachment 2, Invoice No. 3645.

⁵ Attachment 2, Invoice Nos. 3636.

⁶ Complaint, at 3, § 4.

September 14, 2013, stating that the MSU game was not closed captioned. Ms. Lang is the manager of KFBB's sister station in Butte, Montana, KWYB. She had no role in Max Media's football productions, does not normally work on Saturdays, and is not the designated contact for emergency or written closed captioning communications. That designated contact is the station's Chief Engineer, Sam Nishoff, and had Mr. Bibler called or sent an email or a fax to the numbers or address listed in the Commission's online VDP database, Mr. Nishoff could have investigated the issues when it was possible to correct problems. Indeed, the station and Mr. Bibler have corresponded regarding captioning for over two years.

III. Captioning Problems Were Technical, Not Based on Any Exemption.

The lack of closed captioning during the games discussed above was due to technical difficulties that arose notwithstanding KFBB and Max Media's good-faith efforts to provide the service. The attached invoices for closed captioning services show that Max Media routinely contracted for captioning services on MSU games and had arranged for closed captioning of the games that were the subjects of Mr. Bibler's complaint.

Max Media and KFBB regret the circumstances that caused this closed captioning failure; it was their intent to deliver the benefits of captioning to its local audience. Accordingly, KFBB believes that no further action on the Complaint is warranted.

Respectfully submitted,

MMM Licensee II LLC
Max Media of Montana LLC



David J. Wilhelm
Vice President & Assistant Secretary

Attachments (2)


cc: Ron Bibler (pdf copy via email: ron@biblerfinancial.com)
Susan Kimmel (pdf copy via email: Susan.Kimmel@fcc.gov)
Sherita Kennedy (pdf copy via email: Sherita.Kennedy@fcc.gov)

Attachment 1

From: Dale Rhodes <dale_rhodes@yahoo.com>
Reply-To: Dale Rhodes <dale_rhodes@yahoo.com>
Date: Monday, September 16, 2013 10:13 AM
To: Jeff Watts <jeffwatts@jwproductions.org>
Cc: Rip Cook <rcook@montanainternet.net>, Linda Gray <lindagray@maxmontana.com>
Subject: Re: CLOSED CAPTION ENCODER
Resent-From: Linda Gray <lindagray@maxmontana.com>
Resent-Date: Monday, September 16, 2013 10:36 AM

JEFF,

I HAVE ORDERED A CC ENCODER FROM BEXEL FOR THE GAME ON SAT. YOU WILL NEED TO FED-EX IT MONDAY FOR OVERNIGHT DELIVERY ON TUESDAY MORNING. IT HAS TO GO BACK OUT ON TUESDAY FOR A LONG TERM RENTAL.



ANY QUESTIONS GIVE ME A CALL

THANKS
DALE RHODES
VIDEOLINES MOBILE TELEVISION
801-580-9474
From: Jeff Watts <jeffwatts@jwproductions.org>
To: DALE RHODES <dale_rhodes@yahoo.com>
Sent: Friday, September 13, 2013 10:44 PM
Subject: Re: CLOSED CAPTION ENCODER

14105 scenic ridge
Haslet texas. 76052

Sent from my iPhone

On Sep 13, 2013, at 8:32 PM, DALE RHODES <dale_rhodes@yahoo.com> wrote:

JEFF,

WHERE IS THE BEST ADDRESS TO SEND THE CLOSED CAPTION ENCODER
OR CAN YOU GET ONE LOCALLY FOR THE GAME ON THE 21ST.
LET ME KNOW

THANKS
DALE RHODES

VIDEOLINES MOBILE TELEVISION

Attachment 2

VIDEOLINES MOBILE TELEVISION10852 SO PAMPAS WAY
SANDY, UT 84094**INVOICE**Invoice Number: 3650
Invoice Date: Sep 28, 2013
Page: 1

Duplicate

Voice: 801-580-9474

Fax:

Bill To
MAX MEDIA 2200 STEVENS AVE MISSOULA, MT 59801

Ship to
MAX MEDIA 2200 STEVENS AVE MISSOULA, MT 59801

Customer ID	Customer PO	Payment Terms	
MAX MEDIA	VBL	Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	ON SITE	9/28/13	10/28/13

Quantity	Item	Description	Unit Price	Amount
1.00	HD-1 PRODUCTION	FOOTBALL IN GRAND FORKS NORTH DAKOTA	9,500.00	9,500.00
1.00	UPLINKING	SATELLITE UPLINKING	3,000.00	3,000.00
4.50	SAT SPACE	SATELLITE SPACE	335.00	1,507.50
4.50	CLOSED CAPTIONING	CLOSED CAPTIONING SERVICE	125.00	562.50
1,500.00	MILEAGE	MILEAGE	1.25	1,875.00
9.00	HOTEL	HOTEL FOR CREW	125.00	1,125.00
Subtotal				17,570.00
Sales Tax				
Total Invoice Amount				17,570.00
Payment/Credit Applied				
TOTAL				17,570.00

Check/Credit Memo No:

VIDEOLINES MOBILE TELEVISION
 10852 SO PAMPAS WAY
 SANDY, UT 84094

INVOICE

Invoice Number: 3645
 Invoice Date: Sep 22, 2013
 Page: 1

Voice: 801-580-9474
 Fax:

Bill To:
MAX MEDIA 2200 STEVENS AVE MISSOULA, MT 59801

Ship to:
MAX MEDIA 2200 STEVENS AVE MISSOULA, MT 59801

Customer ID	Customer PO	Payment Terms	
MAX MEDIA	VL	Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	ON SITE	9/19/13	10/22/13

Quantity	Item	Description	Unit Price	Amount
1.00	RENTAL	RENTAL OF CC ENCODER	650.00	650.00
1.00	SHIPPING	SHIPPING FROM BEXEL AND RETURN	400.00	400.00
4.50	CLOSED CAPTIONING	CLOSED CAPTIONING SERVICE	125.00	562.50
5.50	SAT SPACE	SATELLITE SPACE	335.00	1,842.50
Subtotal				3,455.00
Sales Tax				
Total Invoice Amount				3,455.00
Payment/Credit Applied				
TOTAL				3,455.00

Check/Credit Memo No:

VIDEOLINES MOBILE TELEVISION10852 SO PAMPAS WAY
SANDY, UT 84094**INVOICE**Invoice Number: 3646
Invoice Date: Sep 22, 2013
Page: 1Voice: 801-580-9474
Fax:

Bill To
MAX MEDIA 2200 STEVENS AVE MISSOULA, MT 59801

Ship to
MAX MEDIA 2200 STEVENS AVE MISSOULA, MT 59801

Customer ID	Customer PO	Payment Terms	
MAX MEDIA	VBL	Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	ON SITE		10/22/13

Quantity	Item	Description	Unit Price	Amount
1.00	HD-2 PRODUCTION	HD-2 PRODUCTION TRUCK IN MISSOULA	7,500.00	7,500.00
1.00	HD-2 PRODUCTION	SET-UP DAY	2,500.00	2,500.00
1.00	UPLINKING	SATELLITE UPLINKING OF FOOTBALL FROM MISSOULA	3,000.00	3,000.00
4.50	SAT SPACE	SATELLITE SPACE	335.00	1,507.50
4.50	CLOSED CAPTIONING	CLOSED CAPTIONING SERVICE	125.00	562.50
6.00	HOTEL	HOTEL FOR CREW	125.00	750.00
1,250.00	MILEAGE	MILEAGE	0.85	1,062.50
Subtotal				16,882.50
Sales Tax				
Total Invoice Amount				16,882.50
Payment/Credit Applied				
TOTAL				16,882.50

Check/Credit Memo No:

VIDEOLINES MOBILE TELEVISION10852 SO PAMPAS WAY
SANDY, UT 84094**INVOICE**Invoice Number: 3636
Invoice Date: Sep 15, 2013
Page: 1

Duplicate

Voice: 801-580-9474
Fax:**Bill To:**MAX MEDIA
2200 STEVENS AVE
MISSOULA, MT 59801**Ship to:**MAX MEDIA
2200 STEVENS AVE
MISSOULA, MT 59801

Customer ID	Customer PO	Payment Terms	
MAX MEDIA		Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	ON SITE	9/14/13	10/15/13

Quantity	Item	Description	Unit Price	Amount
1.00	HD-2 PRODUCTION	HD-2 PRODUCTION TRUCK - FOOTBALL	7,500.00	7,500.00
		IN NORTH DAKOTA		
1.00	UPLINKING	SATELLITE UPLINKING IN NORTH DAKOTA	3,000.00	3,000.00
4.50	CLOSED CAPTIONING	CLOSED CAPTIONING SERVICE	125.00	562.50
6.00	HOTEL	HOTEL FOR CREW	125.00	750.00
1,500.00	MILEAGE	MILEAGE	1.25	1,875.00
4.50	SAT SPACE	SATELLITE SPACE	335.00	1,507.50
1.00	RENTAL	RENTAL OF GENERATOR	1,475.00	1,475.00
Subtotal				16,670.00
Sales Tax				
Total Invoice Amount				16,670.00
Payment/Credit Applied				
TOTAL				16,670.00

Check/Credit Memo No:

VIDEOLINES MOBILE TELEVISION10852 SO PAMPAS WAY
SANDY, UT 84094**INVOICE**Invoice Number: 3635
Invoice Date: Sep 15, 2013
Page: 1

Duplicate

Voice: 801-580-9474

Fax:

Bill To:MAX MEDIA
2200 STEVENS AVE
MISSOULA, MT 59801**Ship to:**MAX MEDIA
2200 STEVENS AVE
MISSOULA, MT 59801

Customer ID	Customer PO	Payment Terms	
MAX MEDIA		Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	ON SITE	9/14/13	10/15/13

Quantity	Item	Description	Unit Price	Amount
1.00	HD-1 PRODUCTION	FOOTBALL IN BOZEMAN	9,500.00	9,500.00
1.00	UPLINKING	SATELLITE UPLINKING IN BOZEMAN	3,000.00	3,000.00
4.50	SAT SPACE	SATELLITE SPACE FOR FOOTBALL	335.00	1,507.50
6.00	HOTEL	HOTEL FOR CREW	125.00	750.00
Subtotal				14,757.50
Sales Tax				
Total Invoice Amount				14,757.50
Payment/Credit Applied				
TOTAL				14,757.50

Check/Credit Memo No: