



WASHINGTON, DC

December 7, 2018

Via Email (Sherita.Kennedy@fcc.gov)

Federal Communications Commission
Disability Rights Office
445 12th Street, SW
Washington, DC 20554
Attention: Ms. Sherita Kennedy, Telecommunications Accessibility Specialist

RE: Further Notices of Informal Complaint
Darlene Ewan, Complainant
Station KITV(DT), Honolulu, HI
Facility ID No. 64548
FCC Complaint Ticket Nos. 2501999 and 2512323

Dear Ms. Kennedy:

This firm is counsel to KITV, Inc. (“KITV”), the licensee of television station KITV(DT), Honolulu, Hawaii, Facility ID No. 64548 (the “*Station*”). KITV responded by letter dated June 22, 2018 to informal complaints (“*Informal Complaints*”) filed by Ms. Darlene Ewan with the Federal Communications Commission (the “*Commission*” or the “*FCC*”) relating to closed captioning and visual presentation of emergency information in KITV’s “Island News” program (the “*Island News*”). This letter responds to the above-referenced Further Notices of Informal Complaint (the “*Further Notices*”) received by KITV on November 9, 2018. The Further Notices request that KITV respond to three inquiries as set forth below.

- *Did KITV check, and was it able to confirm, the length of the entire time period the captioning system malfunction affected programming (i.e., before the 6:00 p.m. May 16, 2018 segment at issue through 8 a.m. May 17)?*

KITV’s network and syndicated programming was not impacted by the captioning system malfunction, only KITV’s local news programming – the Island News – was impacted. Captions appeared during the Island News Midday program on May 16 and the



Island News Midday program on May 17,¹ but not during the Island News that aired in between the two Midday programs. Thus, the captioning system was not functioning during the 5 p.m., 6 p.m. and 10 p.m. Island News programs on May 16 and the Good Morning Hawaii program on May 17, which aired from 5 a.m. to 7 a.m.

- *Did KITV check its programming within the entire time frame during which captioning was ‘down’ to determine whether “emergency information” presented during that period complied with 79.2’s requirements? If so, what did the station’s review of that material reveal about its 79.2 compliance? If not, we ask that the station review that material (programming reporting on Kilauea and related activities during the entire time period during which captioning was down) and advise whether, in KITV’s view, it complied with 79.2 throughout that period. In either case, please provide recordings of all relevant material to us for our review as well. We ask that you retain that additional material along with the material KITV reviewed for purposes of its June 22, 2018 response (see n. 3 at page 3).*

KITV has reviewed the 5 p.m., 6 p.m. and 10 p.m. Island News programs on May 16 and the Good Morning Hawaii program on May 17 as requested.

On May 16, the Island News at 5 p.m., 6 p.m. and 10 p.m. included reporting on the Kilauea volcano. The reports discussed the volcano and provided news information related to the volcano and its impact on the Hawaiian Islands generally, but no specific actionable information intended to protect life, health, safety and property regarding a current volcanic event on the Big Island was included. The reports provided information relevant to the ongoing volcanic activity and the impact of the volcano on the community, but did not provide critical details of a current emergency.

On May 17, there was a short-lived new eruption from the Kilauea volcano in the early morning hours. The new eruption was one in a series of approximately 125 eruptions that had occurred over the prior 24-hour period. The impact area for the eruption was in a state park that had already been closed to the public. The new eruption did not prompt any evacuation notices or emergency protocols from state authorities.

The new eruption was reported on during the Good Morning Hawaii program on May 17. The initial report was made at 5:30 a.m., and within minutes KITV added a graphic at the bottom of the screen noting the new eruption in a second report that aired at 5:33 a.m. At 6:01 a.m., a Good Morning Hawaii anchor reported on the eruption for a third time, highlighting the impacted area on a map with an on-screen graphic regarding the new eruption. At 6:45 a.m., there was an on-scene live report and dialog between the

¹ KITV notes that although the captioning equipment was functioning, isolated caption issues occurred during the Island News Midday programs on May 16 and May 17 due to the script and teleprompter errors discussed in KITV’s initial response. As described further below, KITV’s enhanced monitoring and training efforts have largely eliminated these errors.



Good Morning Hawaii anchors and the on-scene reporter. The new eruption graphic was also present during this fourth report. Although captions did not run in the Good Morning Hawaii program due to the equipment malfunction, the on-screen graphic and map informed viewers of the new eruption during the program.²

KITV regrets that captioning did not appear as intended in the programs, but believes that it fulfilled its obligations to viewers during this period.

- *We request that KITV advise whether the station has continued to monitor the performance of its captioning system to ensure the corrected systems have continued to function properly, and that no new technical malfunctions have occurred. In this regard, we further request that KITV advise whether that station has monitored for any further captioning errors associated with script mis-feeding by anchors (or other anchor error) and, if so, what the results of that monitoring have shown to date.*

As described in the initial response, KITV follows the enhanced ENT procedures for the Island News, and KITV's ENT Coordinator, Jean Robin Jadotte, is responsible for monitoring KITV's compliance with the enhanced ENT procedures and the captions in the Island News programs. As part of KITV's efforts to improve captioning of the Island News following the May 2018 issues, KITV implemented additional caption monitoring policies at its master control facility. KITV's master control operators have been instructed to monitor captions and notify Mr. Jadotte and the other designated closed captioning personnel immediately of any captioning issues. In addition, KITV installed an automated monitoring system that monitors the KITV video feed for closed captions on the specific closed caption lines. If the captions do not appear, the system is designed to automatically alert Mr. Jadotte and the other designated closed captioning personnel.

KITV also provides training and detailed instructions to all Island News staff, including the anchors, producers, reporters and managers responsible for on-air content, regarding captioning of the Island News. KITV has emphasized these training and instructional efforts since the May 2018 captioning issues. The instructions stress the importance of proper scripting, the importance of following the script and not skipping ahead, and how to feed scripts to the teleprompter. Additionally, Island News staff has been instructed to monitor the captions in the programming live via in-studio monitors. In preparation for the recent hurricane season, KITV's training efforts have placed a special emphasis on the importance of closed captioning and graphics to report emergency information. In addition, as part of preparations for a major event or emergency, the Island News staff confirms how captions will be handled.

² KITV has posted a recording with the reports of the new eruption in the Good Morning Hawaii program on May 17 at: https://www.dropbox.com/s/0cgy6qgz832ae12/mike%20d%20fcc_1.mp4?dl=0. The link will remain active for download until at least January 7, 2019.



Ms. Sherita Kennedy
December 7, 2018
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In light of these efforts, KITV is aware of only rare Island News anchor errors over the last several months resulting in a captioning issue. On these rare occasions, KITV's monitoring quickly noted the captioning issue, identified the source of the issue (i.e., the anchor error), and addressed the issue. No emergency information was aired during these rare anchor-caused captioning issues.

KITV recently suffered a catastrophic equipment failure at its master control facility that resulted in a disruption of KITV's on air stream and captions for a period of time on November 14, 2018. Following the equipment failure, KITV re-routed its D3 Hawaii TV channel to air on the main D1 channel, and as part of this re-routing the captions during the Island News Midday program on November 14 were inadvertently removed from the stream. No emergency information was reported during this Island News Midday program. KITV's engineering department has since identified the cause for the dropped captions and has modified the studio news air chain to prevent the issue in the future and also enable more efficient and effective emergency patching and re-routing. In addition, KITV has implemented a policy to run a crawl informing viewers of any technical difficulties (including captioning issues) and, to the extent necessary, to include emergency information in the crawl.

KITV remains committed to serving all viewers on the Hawaiian Islands, including the deaf and hard of hearing, and appreciates that this process has resulted in improved captioning policies to better serve viewers. If there are any additional questions regarding this matter, please contact Erin E. Kim (ekim@lermansenter.com or 202-416-6772), KITV's FCC counsel.

Sincerely,

LERMAN SENTER PLLC

A handwritten signature in black ink, appearing to read 'Erin E. Kim'.

Erin E. Kim
Counsel to KITV, Inc.

cc: Ms. Darlene Ewan, via email (canthecant@gmail.com)

CERTIFICATION OF LICENSEE

I, Russell Elwell, hereby declare, under penalty of perjury, as follows:

1. I am Director of Operations of station KITV(DT), Honolulu, Hawaii. I have held this position at all relevant times.
2. My signature below indicates that I have reviewed the Official Further Notice of Informal Complaint dated November 9, 2018, Complaint Ticket #2512323 and the Official Further Notice of Informal Complaint dated November 9, 2018, Complaint Ticket #2501999 (the "Further Notices"), and I am familiar with its contents, I have reviewed the foregoing correspondence from Erin E. Kim in response to the Further Notices, and, to the best of my knowledge, information, and belief, I hereby verify the trust and accuracy of the information contained therein.

The undersigned, under penalty of perjury, declares the foregoing to be true, complete and correct to the best of his personal knowledge.

December 7, 2018

By: 

Russell Elwell
Director of Operations

#2501999 Closed Captioning

Submitted May 17, 2018, 4:22 AM
Received via Web Form
Requester Canthecant <canthecant@gmail.com>

CCs
 Sherita Kennedy <sherita.kennedy@fcc.gov>

Status Open
Type -
Priority -
Group DRO - Main Form
Assignee Sherita Kennedy

Complaint Internal Status Carrier Response Received
Name of TV program Island News
Carrier Serve Due Date Jun 23
TV Method Cable

Accessibility Issues Closed Captioning on TV
First Name Darlene
Last Name Ewan
State Hawaii
Zip Code 96815
Time of Issue 6:00 pm

Date of Issue May 16
Address 2 102
TV channel 4
City Where Program was Viewed/Heard Honolulu

City of Company Complaining About Honolulu
State of Company Complaining About Hawaii

Preferred Method of Response Email
Network ABC
Name of Company Complaining About ABC

Zip Code of Company Complaining About 96813
Call Sign KITV
State Where Program was Viewed/Heard Hawaii

Address 1 2565 Ala Wai Boulevard
City Honolulu
Filing on Behalf of Someone No
Name of Subscription Service Other

Subscription Service Name (Other)
 Spectrum

Canthecant May 17, 4:22 AM

There wasn't any CLOSED CAPTIONING with KITV (ABC) I cannot add more due to large memory. I will send you an email with other videos.

Sherita Kennedy May 17, 7:41 AM

Internal note

Request [#2502004](#) "Closed Captioning" was closed and merged into this request. Last comment in request [#2502004](#):

No Captioning on Local News (Emergency)

Sherita Kennedy May 18, 11:36 AM

Internal note

Video [#1](#)

Sherita Kennedy May 18, 12:04 PM

Internal note

Video [#2](#)

Sherita Kennedy May 18, 12:53 PM

Internal note

KITV

Sherita Kennedy May 23, 8:39 AM

Internal note

KITV, on multiple occasions beginning May 3, 2018 and continuing throughout the current Hawaii Island Kilauea volcano activity, appears to have captioned its live news programs using the electronic newsroom technique (ENT), which is permitted by the FCC's rules. ENT is a technique that can convert the dialogue included on a teleprompter script into captions. Broadcasters must comply with the FCC's enhanced ENT procedures. For example, stations must supplement live interviews or live on-the scene or breaking news segments that are not scripted with crawls, textual information, or other means (to the extent technically feasible). Included in this complaint are videos of instances where it appears that the station did not follow the FCC's enhanced ENT procedures.

Sherita Kennedy May 23, 8:41 AM

Internal note

OFFICIAL NOTICE OF INFORMAL COMPLAINT

The Federal Communications Commission (FCC or Commission) is serving your company with this informal complaint that Darlene Ewan filed with the Disability Rights Office (DRO). The informal complaint concerns obligations to provide closed captioning on television. 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 79.1 of the Commission's rules, 47 CFR § 79.1.

This Notice of Informal Complaint (Notice or NOIC) directs your company, as the broadcaster or multichannel video programming distributor (MVPD), 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 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.

If the programming at issue had been delivered to your company without captions, your company must check with the supplying network or program producer before responding to this Notice to determine whether the programming is exempt from the captioning requirements pursuant to one of the categorical exemptions in 47 CFR § 79.1(d) or to an individual petition for exemption filed under 47 CFR § 79.1(f). Please note that even if the supplying network or program producer qualifies for a captioning exemption, it still has an obligation to pass through captions of already captioned programs in accordance with 47 CFR § 79.1(c).

NOTE: Given the ongoing Kilauea volcano activity, it is important that all of your viewers, including viewers who are deaf or hard of hearing, remain as informed as possible about these developments.

If your company uses the electronic newsroom technique (ENT) to provide closed captioning for live programming or programming originally transmitted live, please include in your response a thorough explanation of your company's compliance with the FCC's enhanced ENT procedures, particularly with respect to the weather, live interviews, live on-the-scene, and breaking news segments of your news programming. See 47 CFR § 79.1(e) (11)(i); see also *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking*, CG Docket No. 05-231, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, FCC 14-12, 29 FCC Rcd 2221, 2266-74, ¶¶ 71-87 (2014). **Please include with your response a recording, such as a DVD or an electronic file**, of the time(s) and date(s) of the event(s) described in the complaint.

If you conclude that the programming at issue conveyed emergency information, as that term is defined in the Commission's rules, 47 CFR § 79.2(a)(2), please describe the emergency information that was conveyed aurally and how that emergency information was conveyed visually. See 47 CFR § 79.2(b)(1) (requiring video programming distributors to "make emergency information . . . that is provided in the audio portion of the programming accessible to persons with hearing disabilities by using a method of closed captioning or by using a method of visual presentation"). **Please include with your response a recording, such as a DVD or an electronic file**, of the time(s) and date(s) of the event(s) described in the complaint.

We also take this opportunity to remind you about your company's obligations to ensure that the programming it shows on television with closed captioning, is closed captioned when distributed via Internet protocol, and that the captioning for such programming, including live programming that it streams online, is at least the same quality as the television captions provided for the same programming. See 47 CFR § 79.4.

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.

Sherita Kennedy Jun 25, 10:18 AM

Internal note

KITV response

Sherita Kennedy Oct 23, 10:40 AM

Dear Darlene Ewan,

This is to advise that we are continuing to evaluate the facts and circumstances surrounding the captioning problems at issue in this Complaint.

We hope to take further action, as circumstances warrant, in the very near term, and thank you for your patience in the interim.

Sincerely,

Sherita Kennedy
FCC - Disability Rights Office

Sherita Kennedy Nov 9, 7:53 AM

Internal note

OFFICIAL FURTHER NOTICE OF INFORMAL COMPLAINT

The Federal Communications Commission (FCC or Commission) is serving your company with this further notice of informal complaint that Darlene Ewan filed with the Disability Rights Office (DRO). The informal complaint concerns obligations to provide closed captioning on television. We are investigating 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 79.1 of the Commission's rules, 47 C.F.R. § 79.1.

This Further Notice of Informal Complaint (Notice or NOIC) directs your company, as the Broadcaster or Multichannel Video Programming Distributor (MVPD), to respond fully and directly to each and every material allegation raised in the informal complaint and summarize the actions taken by your company to satisfy the informal complaint and come into compliance with controlling law within thirty (30) days of the date of this Notice.

If the programming at issue had been delivered to your company without captions, your company must check with

the supplying network or program producer before responding to this Notice to determine whether the programming is exempt from the captioning requirements pursuant to one of the categorical exemptions in 47 CFR §79.1(d) or to an individual petition for exemption filed under 47 CFR §79.1(f). Please note that even if the supplying network or program producer qualifies for a captioning exemption, it still has an obligation to pass through captions of already captioned programs in accordance with 79.1(c).

NOTE: In its June 22, 2018 response, KITV acknowledges failure of its captioning equipment that affected its 6:00 p.m. Island News programming May 16, 2018. That failure, KITV reports, was not corrected until 8:00 a.m. the next day, May 17, 2018. Within that time frame, of course, there was significant local, state and federal emergency response and management activity associated with the unfolding Kilauea disaster that logically would have been the subject of KITV's reporting and subject to our 79.2 emergency information reporting requirements (regardless of how the material in Clips 1 and 3 -- both of which fall within that time frame -- might appropriately be characterized for purposes of our 79.2 rules). Given the admitted 'down' state of captioning during that critical time period:

- did KITV check, and was it able to confirm, the length of the entire time period the captioning system malfunction affected programming (i.e., before the 6:00 p.m. May 16, 2018 segment at issue through 8 a.m. May 17)?
- did KITV check its programming within the entire time frame during which captioning was 'down' to determine whether "emergency information" presented during that period complied with 79.2's requirements? If so, what did the station's review of that material reveal about its 79.2 compliance? If not, we ask that the station review that material (programming reporting on Kilauea and related activities during the entire time period during which captioning was down) and advise whether, in KITV's view, it complied with 79.2 throughout that period. In either case, please provide recordings of all relevant material to us for our review as well. We ask that you retain that additional material along with the material KITV reviewed for purposes of its June 22, 2018 response (see n. 3 at page 3).

Finally, we request that KITV advise whether the station has continued to monitor the performance of its captioning system to ensure the corrected systems have continued to function properly, and that no new technical malfunctions have occurred. In this regard, we further request that KITV advise whether that station has monitored for any further captioning errors associated with script mis-feeding by anchors (or other anchor error) and, if so, what the results of that monitoring have shown to date.

Please submit your response to the Commission by replying to this email or via the FCC Consumer Help Center. 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 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 publically 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.

#2512323 Hawaii Volcano eruption

Submitted May 22, 2018, 9:24 AM
Received via Web Form
Requester Canthecant <canthecant@gmail.com>

CCs
 Sherita Kennedy <sherita.kennedy@fcc.gov>

Status Open
Type -
Priority -
Group DRO - Main Form
Assignee Sherita Kennedy

Complaint Internal Status	Name of TV program	Carrier	Serve Due Date	TV Method	
Carrier Response Received	Island News		Jun 23	Cable	
Accessibility Issues	First Name	Last Name	State	Zip Code	Time of Issue
Emergency Information on TV	Darlene	Ewan	Hawaii	96813	6:00 pm
Date of Issue	Address 2	TV channel	City Where Program was Viewed/Heard		
May 16	102	4	Honolulu		
City of Company Complaining About		State of Company Complaining About			
Honolulu		Hawaii			
Preferred Method of Response	Zip Code of Company Complaining About			Call Sign	
Email	96815			KITV	
State Where Program was Viewed/Heard	Address 1		City		
Hawaii	2565 Ala Wai Boulevard		Honolulu		
Name of Subscription Service	Subscription Service Name (Other)				
Other	Spectrum				

Canthecant May 22, 9:24 AM

There was no emergency information on displayed KITV

Sherita Kennedy May 22, 10:01 AM

KITV video

Internal note

Sherita Kennedy May 23, 7:30 AM

No emergency information videos

Internal note

Sherita Kennedy May 23, 8:43 AM

KITV, on multiple occasions beginning May 3, 2018 and continuing throughout the current Hawaii Island Kilauea volcano activity, has broadcast emergency information aurally. FCC rules require broadcasters to make aural emergency information accessible to individuals who are deaf or hard of hearing through the provision of closed captioning or by using another method of visual presentation. Included in this complaint are videos of instances where it appears that speakers are presenting information intended to further the protection of life, health, safety, and property – critical details regarding the emergency and how to respond to the emergency – that should also have been presented visually.

If these broadcasts did not convey emergency information, then these broadcasts may not have complied with the FCC's enhanced ENT closed captioning rules (described above).

Sherita Kennedy May 23, 8:44 AM

Internal note

OFFICIAL NOTICE OF INFORMAL COMPLAINT

The Federal Communications Commission (FCC or Commission) is serving your company with this informal complaint that Darlene Ewan 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 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.

NOTE: Given the ongoing Kilauea volcano activity, it is important that all of your viewers, including viewers who are deaf or hard of hearing, remain as informed as possible about these developments.

If you conclude that the programming at issue conveyed emergency information, as that term is defined in the Commission's rules, 47 CFR § 79.2(a)(2), please describe the emergency information that was conveyed aurally and how that emergency information was conveyed visually. See 47 CFR § 79.2(b)(1) (requiring video programming distributors to "make emergency information . . . that is provided in the audio portion of the programming accessible to persons with hearing disabilities by using a method of closed captioning or by using a method of visual presentation"). **Please include with your response a recording, such as a DVD or an electronic file**, of the time(s) and date(s) of the event(s) described in the complaint.

If you conclude that the programming at issue did not convey emergency information, and your company uses the electronic newsroom technique (ENT) to provide closed captioning for live programming or programming originally transmitted live, please include in your response a thorough explanation of your company's compliance with the FCC's enhanced ENT procedures, particularly with respect to the weather, live interviews, live on-the-scene, and breaking news segments of your news programming. See 47 CFR § 79.1(e)(11)(i); see also *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking*, CG Docket No. 05-231, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, FCC 14-12, 29 FCC Rcd 2221, 2266-74, ¶¶ 71-87 (2014). **Please include with your response a recording, such as a DVD or an electronic file**, of the time(s) and date(s) of the event(s) described in the complaint.

We also take this opportunity to remind you about your company's obligations to ensure that the programming it shows on television with closed captioning, is closed captioned when distributed via Internet protocol, and that the captioning for such programming, including live programming that it streams online, is at least the same quality as the television captions provided for the same programming. See 47 CFR § 79.4.

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.

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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.

Sherita Kennedy Jun 25, 10:16 AM

Internal note

KITV response

Sherita Kennedy Oct 23, 10:42 AM

Dear Darlene Ewan,

This is to advise that we are continuing to evaluate the facts and circumstances surrounding the captioning problems at issue in this Complaint.

We hope to take further action, as circumstances warrant, in the very near term, and thank you for your patience in the interim.

Sincerely,

Sherita Kennedy
FCC - Disability Rights Office

Sherita Kennedy Nov 9, 7:57 AM

Internal note

OFFICIAL FURTHER NOTICE OF INFORMAL COMPLAINT

The Federal Communications Commission (FCC or Commission) is serving your company with this further notice of informal complaint that Darlene Ewan filed with the Disability Rights Office (DRO). The informal complaint concerns obligations to provide emergency information in an accessible manner for video programming shown on television. We are investigating 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(c) of the Commission's rules, 47 C.F.R. § 79.2(c).

This Further 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 you need to take steps to satisfy the informal complaint and come into compliance, please summarize your proposed actions and the timeframe for completion. Please also include some form of recording (CD, DVD, VHS) of the time(s) and date(s) of the complained about event(s). Your response is due no later than thirty (30) days from the date of this Notice.

NOTE: In its June 22, 2018 response, KITV acknowledges failure of its captioning equipment that affected its 6:00 p.m. Island News programming May 16, 2018. That failure, KITV reports, was not corrected until 8:00 a.m. the next day, May 17, 2018. Within that time frame, of course, there was significant local, state and federal emergency response and management activity associated with the unfolding Kilauea disaster that logically would have been the subject of KITV's reporting and subject to our 79.2 emergency information reporting requirements (regardless of how the material in Clips 1 and 3 -- both of which fall within that time frame -- might appropriately be characterized for purposes of our 79.2 rules). Given the admitted 'down' state of captioning during that critical time period:

- *did KITV check, and was it able to confirm, the length of the entire time period the captioning system malfunction affected programming (i.e., before the 6:00 p.m. May 16, 2018 segment at issue through 8 a.m. May 17)?*

- *did KITV check its programming within the entire time frame during which captioning was 'down' to determine whether "emergency information" presented during that period complied with 79.2's requirements? If so, what did the station's review of that material reveal about its 79.2 compliance? If not, we ask that the station review that material (programming reporting on Kilauea and related activities during the entire time period during which captioning was down) and advise whether, in KITV's view, it complied with 79.2 throughout that period. In either case, please provide recordings of all relevant material to us for our review as well. We ask that you retain that additional material along with the material KITV reviewed for purposes of its June 22, 2018 response (see n. 3 at page 3).*

Finally, we request that KITV advise whether the station has continued to monitor the performance of its captioning system to ensure the corrected systems have continued to function properly, and that no new technical malfunctions have occurred. In this regard, we further request that KITV advise whether that station has monitored for any further captioning errors associated with script mis-feeding by anchors (or other anchor error) and, if so, what the results of that monitoring have shown to date.

Please submit your response to the Commission by replying to this email or via the FCC Consumer Help Center. 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 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 publically 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.

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