

July 24, 2014

BY E-MAIL AND HAND DELIVERY

Susan L. Kimmel, Deputy Chief
Disability Rights Office
Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Re: Informal Complaint No. 14-C00573823 (Ms. Cheryl Mizusawa)
Informal Complaint No. 14-C00574030 (Ms. Sara Stasium)
Informal Complaint No. 14-C00574251 (Ms. Carol Nakamoto)
Informal Complaint No. 14-C00573541 (Ms. Darlene Ewan)

Dear Ms. Kimmel:

KHNL/KGMB License Subsidiary, LLC, licensee of KGMB(TV), Honolulu, Hawaii ("KGMB"), and KHNL(TV), Honolulu, Hawaii ("KHNL") (collectively, the "Station"), hereby responds to the closed captioning complaints of Ms. Cheryl Mizusawa, Ms. Sara Stasium, Ms. Carol Nakamoto, and Ms. Darlene Ewan, each of which were forwarded to the Station with an "Official Notice of Informal Complaint" dated June 24, 2014. Each complaint is summarized below:

- Ms. Mizusawa's complaint states that on April 1, 2014, at 9:47 p.m., "[t]here is no CC on live television." Additionally, the complaint references a "[t]sunami warning" at 4:05 p.m. on the same date, and the complaint states that the complainant is "[f]rustrated not have closed caption on Live TV when Tsunami warning came out."
- Ms. Stasium's complaint states that on April 1, 2014, at 12:00 a.m., "[t]sunami advisory was issued for state of Hawaii, none of live local news were captioned on TV and websites." The complaint requests that closed captioning be added "to all local news on TV and video streaming on websites during emergencies (tsunami, earthquake, etc)."

- Ms. Nakamoto's complaint states that on April 2, 2014, at 12:00 a.m., "[t]sunami warning in Hawaii not accessible to deaf people on all local news stations No closed captioning or ASL interpreter provided for emergency information." The complaint also states that "[c]losed captioning or an ASL interpreter should be required when emergency announcements are made on every local News Station in Hawaii."
- Ms. Ewan's complaint states that on April 1, 2014, at 5:00 p.m., "Hawaii News Now issued a tsunami advisory between 5 p.m. to 6 p.m. There were continuous news coverages from early afternoon to next morning at 8 am however the live announcements were never captioned." The complaint also states that "[t]he issue could have been prevented by providing the open captioning during the dire emergencies. Therefore the review should be carefully and thoroughly considered, and the recommended resolution is to enforce the open captioning on all news channels."

The Station appreciates the opportunity to respond to the complainants' concerns. The Station takes the concerns of its viewers very seriously and remains committed to providing its viewers with accessible programming. At the times referenced in the complaints, the Station was airing programming that either was fully closed captioned or was closed captioned using Electronic Newsroom Technique ("ENT"), which the Station is permitted to use under the Commission's rules. In addition, no emergency triggering the Commission's rules regarding accessibility of programming providing emergency information occurred on the day in question. Certain of the complainants' references to a "tsunami warning" are inaccurate; no tsunami warning was issued for Hawaii. Details about the events of the April 1 and April 2, 2014, and the Station's coverage are provided below:

- At 12:00 a.m. on April 1, 2014, the time identified in Ms. Stasium's complaint, KHNL was airing the network program "Late Night with Seth Meyers." This program was fully closed captioned.
- At approximately 1:45 p.m., an 8.2 magnitude earthquake occurred in the Pacific Ocean off the coast of northern Chile. In the hours following the earthquake, officials from the Pacific Tsunami Warning Center ("PTWC") announced that they were evaluating the potential impact on Hawaii.

- Between 2:30 p.m. and 4:51 p.m., KGMB ran the following crawl approximately every 15 minutes: "From the Hawaii News Now Newsroom: An earthquake with a preliminary magnitude of 8.2 has struck off the coast of Chile. The Pacific Tsunami Warning Center is evaluating the possible threat to Hawaii. No watches or warnings are in effect at this time for Hawaii."
- From 2:53 p.m. to 3:00 p.m., KGMB aired a live news cut-in updating viewers on the situation. Throughout this cut-in, the following graphic super was displayed: "Breaking News: Hawaii being evaluated for tsunami threat."
- At 4:05 p.m., the first time identified in Ms. Mizusawa's complaint, KGMB was airing the syndicated program "Jeopardy." This program was fully closed captioned.
- At 5:00 p.m., the time identified in Ms. Ewan's complaint, KGMB and KHNL were airing "Hawaii News Now at 5:00." This program was closed captioned using ENT.¹
- At approximately 5:45 pm, PTWC issued a tsunami advisory (not a formal tsunami warning or tsunami watch) for the state of Hawaii. In connection with the advisory, PTWC released the following statement:

Based on all available data, a major tsunami is not expected to strike the state of Hawaii. However, sea level changes and strong currents may occur along all coasts that could be a hazard to swimmers and boaters as well as to persons near the shore at beaches and in harbors and marinas. The threat may continue for several hours after the initial wave arrival.

¹ Certain complaints reference "[c]losed [c]aptioning of television programs streamed or downloaded from the Internet." On April 1, 2014, the Station engaged in its usual practice of streaming its programming from 5:00-6:30 p.m., 9:00 p.m., and 10:00 p.m. live on the Station's website. The Station's practice is to provide closed captioning for live streams of its programming, and to ensure that the closed captioning provided online is of the same quality as the programming on television; there is no indication that this did not occur with respect to the Station's programming on April 1. With respect to the Station's live news programs, the closed captioning generated for television using ENT was passed through to the live stream available on the Station's website.

Initial wave arrival was estimated to occur at 3:24 a.m. on April 2, 2014. Importantly, no tsunami watches or warnings were ever issued for the state of Hawaii.

- At 9:47 p.m., the second time identified in Ms. Mizusawa's complaint, KGMB was airing the network program "Person of Interest." This program was fully closed captioned. Thus, Ms. Mizusawa's assertion that "there is no CC on live television" at 9:47 p.m. is inaccurate.
- At 12:00 a.m. on April 2, 2014, the time identified in Ms. Nakamoto's complaint, KGMB was airing the network program "Late Late Show with Craig Ferguson," and KHNL was airing the network program "Late Night with Seth Meyers." Both programs were fully closed captioned.²

The Commission's rules define "emergency information" as "[i]nformation, about a *current emergency*, that is intended to further the protection of life, health, safety, and property."³ The examples of events in this category include "warnings and watches of impending changes in weather."⁴ The events covered by the Station on April 1, 2014, were not "a current emergency." As noted above, no tsunami watches or warnings were ever issued for the state of Hawaii; the Station's coverage related only to PTWC's evaluation of the potential effects on Hawaii and its eventual issuance of an advisory. In addition, the programming aired by the Station at the times cited in the complaints either was fully closed captioned or was closed captioned using ENT.

Consistent with its commitment to accessibility, the Station is taking additional steps to ensure even better viewer service in the future. For instance, although the Station relies on ENT in the ordinary course, it has created and enacted procedures to provide closed captioning for breaking weather updates even where no emergency exists. As another example of the Station's commitment to accessibility, Station personnel recently participated in training sessions on the Commission's closed captioning and emergency information accessibility rules.

² The Station regrets that it is unable to provide recordings of the program segments in question as requested in the Notice of Informal Complaint. Due to the Station's normal record retention policy, these recordings are no longer available in the Station's video archives. The Station has reconstructed the timeline above concerning its on-air coverage by reviewing its logs.

³ 47 C.F.R. § 79.2(a)(2).

⁴ *Id.* (emphasis added).

Ms. Susan L. Kimmel
Response of KGMB(TV) and KHNL(TV), Honolulu, HI
Informal Complaint Nos. 14-C00573823; 14-C00574030; 14-C00574251; 14-C00573541
July 24, 2014
Page 5

If the Bureau requires any additional information about this matter, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in black ink that reads "Rick Blangiardi". The signature is written in a cursive, flowing style.

Rick Blangiardi
General Manager
Hawaii News Now (KGMB-KHNL)

cc: Ms. Sherita Kennedy (via e-mail)
Ms. Cheryl Mizusawa (via e-mail)
Ms. Sara Stasiun (via e-mail)
Ms. Carol Nakamoto (via e-mail)
Ms. Darlene Ewan (via first-class mail)