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STAMP AND RETURN

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May 28, 2013

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MAY 28 2013

Federal Communications Commission
Bureau / Office

Susan L. Kimmel
Deputy Chief
Disability Rights Office
Consumer and Governmental Affairs Bureau
Federal Communications Commission
The Portals II
445 – 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Informal Complaint
Case Number: 13-C00464474(SK)
(Gessler) (KLCS-TV)

Dear Ms. Kimmel

The Los Angeles Unified School District (“LAUSD”) operates the largest public school system in Los Angeles County, Los Angeles, California – second in size only to the public school system in New York City. LAUSD also is the licensee of noncommercial station KLCS-TV, Los Angeles, California. The KLCS-TV program format primarily focuses on educating children and students, both in the classroom and at home. In addition to the aforesaid primary focus, station KLCS-TV regularly provides information to adults pertaining to LAUSD plans, programs and other educational matters.

Response To Informal Complaint

With respect to the Informal Complaint concerning the provision of video description, Section 79.3(b)(3) states as follows:

“(3) Television broadcast stations that are affiliated or otherwise associated with any television network must pass through video description when the network provides video description and the broadcast station has the

technical capability necessary to pass through the video description, unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description;”

Based on the “unless” exception set forth in Section 79.3(b)(3) of the rules, LAUSD states that the reason for not using “pass through” video description is that the station’s SAP channel is used for Spanish language programming.

While station KLCS-TV has the technical capability to pass through video description, it is using the technology (the SAP channel) on a full-time basis for another purpose related to programming that would conflict with providing video description – specifically, Spanish language programming.¹ Although KLCS-TV operates on a digital channel (channel 41), the SAP channel cannot be used to provide two services simultaneously. The origin for the “unless” (“exception”) set forth in Section 79.3(b)(3) is based on the Notice of Proposed Rulemaking (NPRM, 53 CR 2195, 2204 (2011)) and was adopted as an “exception” in the 2011 Report and Order, 53 CR 1207, 1208 (paragraph 2), 1209 (paragraph 4), 1215 (paragraph 23). Utilization of the SAP channel for Spanish language programming in lieu of video descriptions is explicitly consistent with the purpose of the “exception.”²

LAUSD acknowledges the purpose and the value of video description. KLCS will endeavor to find the resources for capital expenditures such as video descriptions.³

Respectfully submitted



Robert B. Jacobi, Esq.
Cohn and Marks LLP
Counsel for the Los Angeles Unified
School District

cc: Ms. Deborah Gessler
Ms. Sherita Kennedy (FCC; via e-mail)

¹ Persons of Hispanic or Latino origin constitute 48.1% of the Los Angeles County population. Caucasians (the second largest ethnic group) constitute 27.6% of the Los Angeles County population.

² The precise verbiage of Section 79.3(b)(3) was set forth in the 2011 NPRM proposed rules (53 CR 2195, 2204) and adopted without change (Report and Order, 53 CR 1207, 1214).

³ LAUSD has filed a Petition for Exemption of the closed captioning requirement based on “undue burden” exemptions specified in Section 79.1(f) of the FCC rules. The KLCS 2012-2013 budget reflects a 47% reduction from the previous year with no portion set aside for capital expenses (see Appendix A).

APPENDIX A

**EXTRACTS FROM KLCS PETITION FOR EXEMPTION
(FILED IN JULY, 2012) AND KLCS "REPLY"
(FILED IN DECEMBER, 2012) PERTAINING TO BUDGET
REDUCTION/NO SETASIDE FOR CAPITAL EXPENDITURES**

BEFORE THE

Federal Communications Commission

In the Matter of

Los Angeles Unified School District)
Video Programming Accessibility)
Petition for Exemption From Closed)
Captioning Requirements)

To: Disability Rights Office, Room 3-B431

PETITION FOR EXEMPTION

The Los Angeles Unified School District ("LAUSD"), licensee of Noncommercial Educational Television Station KLCS, Los Angeles, California (FCC Facility ID No. 38430), by its counsel, pursuant to 47 C.F.R. Section 79.1(f) of the Commission's rules, hereby petitions the Commission for an exemption, effective as of July 5, 2012, from the closed captioning requirements insofar as LAUSD produces, owns, and distributes video programming on Station KLCS. This Petition requests a blanket exemption from the closed captioning rules or, alternatively, requests exemption on a program-by-program basis from the closed captioning rules, as explained more fully herein. LAUSD seeks this exemption with regard to the programming which it presents on a primary and three multicast channels. For the reasons explained below, LAUSD submits that compliance with the closed captioning rules would pose an "undue burden" upon it (see 47 C.F.R. Section 79.1(f)(1) and 47 U.S.C. Section 713(d) and 713(e)), and

Factor 3: Financial Resources of Station KLCS

Approximately 67% of Station KLCS' current fiscal year funds (the subdivision funds from the Superintendent's division) come from the budget of LAUSD, which in turn receives approximately 80% of its revenues from the State of California. The remaining 33% of Station KLCS' current year budget comes in the form of grants (mainly from the Corporation for Public Broadcasting). The entire current year budget of Station KLCS is allocated to the operation of Station KLCS, with no portion set aside for capital expenditures. The operational budget of Station KLCS has been decreased by 86% (a total of \$4,413,096) since 2000. These reductions have been partially offset by cost of living adjustments to salaries and benefits, LAUSD's funding of previously unfunded positions, and adjustments to production activity by Station KLCS. However, these offsets have not mitigated the impact to Station KLCS' operations from the budget reductions, as they merely corrected budget shortfalls.

The total budget currently available to Station KLCS from all sources is \$3,934,639, all of which is available for operational expenses (\$2,645,680 from the LAUSD and \$1,288,759 from grants). Seventy-one percent of this budget is encumbered for payroll expenses and there are no funds earmarked for capital improvements. The cost of Closed Captioning is included in operational expenses which are being reduced by 47%. For the upcoming FY 2012 – 2013, Station KLCS will see its funding from the LAUSD reduced 47% to \$1,403,437 from \$2,645,680.⁸ Together with new and carryover grant funds, the projected total budget of Station KLCS in 2012 – 2013 will be \$3,418,081.² All but \$12,240 of this budget is already encumbered in payroll, program acquisition, and other critical items.

⁸ The referenced \$2,645,680 is the allocation of funds received from LAUSD, Superintendent division.

² FY 2012-2013 starts as of July 1, 2012

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BEFORE THE
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Los Angeles Unified School District)
Video Programming Accountability)
Updated Petition for Exemption)

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DEC 17 2012

To: Disability Rights Office, Room 3-B431

Federal Communications Commission
Bureau / Office

REPLY TO CONSUMER GROUPS OPPOSITION
TO EXEMPTION PETITION

The Los Angeles Unified School District (hereafter "LAUSD") filed a Petition for Exemption (hereafter "Petition") of the closed captioning requirements based on "undue burden" as that term is defined in the Communications Act. The LAUSD Petition requested a blanket exemption or, alternatively, exemption based on a program-by-program review of the programs listed in Attachment 1.¹ Attachment 1 identifies 25 programs of which 21 are produced by LAUSD's noncommercial educational television station (KLCS, Los Angeles, California). Consumer Groups (a coalition of several entities serving the deaf and hard of hearing) filed an Opposition to the LAUSD Petition. LAUSD respectfully submits its Reply.

The exemption request asserted as the basis for the exemptions "undue burden." The evidence underlying "undue burden" was set forth throughout the Petition. Most noteworthy is the documentation reflecting ongoing BUDGET REDUCTIONS. Charlie Chi, the Financial Analyst for station KLCS provided a "Statement Under Penalty of

¹ See page immediately following Sabrina Thomas "Statement Under Penalty of Perjury".

Perjury”, which included data reflecting ongoing yearly budget reductions pertaining to the television station budget (Attachment 2).² Collectively, the budget reductions between 2000 and 2012-2013 totaled \$5,655,338 (Appendix A). The budget reduction for 2012-2013 is \$1,242,243, a 47% reduction. Indeed, the budget reduction for 2012-2013 alone stands as sufficient evidence to meet the “undue burden/economically burdensome” test.³ Insofar as staff reductions (the consequence of budget reductions), there were 47 full-time staff employees in 2006 and 25 full-time staff employees in 2012 – a staff reduction of almost 50% over a six-year time span (Appendix B).

Separate and apart from the television station budget reductions, all five of the LAUSD basic divisions suffered ongoing reductions. Except for the year 2008 (wherein there was neither a reduction nor an increase), LAUSD suffered a budget reduction every year between 2000 and 2012.⁴ The ongoing budget reductions constitute unimpeachable evidence of “undue burden/economically burdensome.”

Insofar as the Consumer Groups Opposition, it can best be characterized for what it chose to ignore. The LAUSD Petition addressed ALL of the statutory factors

² Attachment 2 (following the Chi “Statement Under Penalty of Perjury) filed with the LAUSD July, 2012 Petition may not be entirely “readable.” A complete and updated “readable” document reflecting budget reductions is attached as Appendix A.

³ As stated in the Petition, (a) the availability of new and carryover grant funds is already encumbered; (b) the entire budget is allocated to the operation of the station with no portion set aside for capital expenditures; and (c) the aforesaid offsets have not mitigated the adverse impact on station operations and do not equate to the budget reductions (Petition, p. 10). Moreover, for the years subsequent to FY 2012-2013, carryover grant funds will NOT be typical since the station will be forced to exhaust all available funds for fiscal year 2012-2013 due to the \$1,242,000 reduction for FY 2012-2013.

⁴ Unlike Anglers for Christ Ministries, Inc., 54 CR 365 (2011), the “undue burden” analysis takes into account budget reductions for both LAUSD and the television station subdivision.


Statement Under Penalty of Perjury

My name is Sabrina Thomas, and I am General Manager of Station KLCS, Los Angeles, California, which is licensed to the Los Angeles Unified School District. I have held my current position of General Manager since July 2011.

I have directed our communications counsel to prepare the forgoing Reply to Notice of Informal Complaint (NOIC) – Disabilities Related FCC File No. FCC Case No. 13-C00464474 (SK) (Gessler) (KVCR-TV, KOCE-TV, KLCS-TV) as regards to Station KLCS' compliance with the Commission's video description rules.

At my request, Thomas Taitt, KLCS Broadcast Compliance Specialist, and others on the staff of Station KLCS have assisted and have worked directly with our communications counsel in the preparation of the information in the Reply to Notice of Informal Complaint (NOIC) – Disabilities Related FCC File No. FCC Case No. 13-C00464474 (SK) (Gessler) (KVCR-TV, KOCE-TV, KLCS-TV) I have read the Reply to Notice of Informal Complaint (NOIC) – Disabilities Related FCC File No. FCC Case No. 13-C00464474 (SK) (Gessler) (KVCR-TV, KOCE-TV, KLCS-TV) and information provided therein is true and correct to the best of my knowledge, information and belief.

Executed under penalty of perjury this 22nd day of May, 2013.



Sabrina Thomas