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**FOX TELEVISION STATIONS, INC.**

A UNIT OF FOX ENTERTAINMENT GROUP

**Joseph M. Di Scipio**  
Vice President  
Legal and FCC Compliance

December 26, 2012

**VIA HAND DELIVERY and EMAIL**

Susan Kimmel  
Deputy Chief, Disability Rights Office  
Consumer & Governmental Affairs Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RECEIVED - FCC

DEC 26 2012

Federal Communications Commission  
Bureau / Office

Re: Notice of Informal Complaint  
(Berman) (WTXF Channel 29)  
FCC Case No. 12-C00436211-1

Dear Ms. Kimmel:

Fox Television Stations, Inc. ("FTS"), the licensee of WTXF, Philadelphia, Pennsylvania ("WTXF"), hereby responds to the Notice of Informal Complaint, as identified above, dated November 27, 2012 ("NOIC").<sup>1</sup> A letter acknowledging the receipt of the NOIC was sent to Mr. Berman on December 5, 2012, and is attached as Attachment A.

Mr. Berman stated in his Form 2000C Disability Access Complaint included with the NOIC that he was watching football when WTXF broadcast a press conference held by the Governor of Pennsylvania about Hurricane Sandy which was not captioned. The press conference began on October 28, 2012 at approximately 4:30 p.m.

WTXF has reviewed its broadcast and the procedures leading up to and including the press conference in question. On October 28, 2012, the station was broadcasting a live NFL football contest. After receiving notice of the upcoming press conference, at about 3:30 p.m. on October 28, 2012 (about one hour before the scheduled press conference), WTXF contacted its captioning service notifying them of the need to caption the press conference. The press conference began at approximately 4:35 p.m. and WTXF used a double broadcast box<sup>2</sup> to allow the viewers to continue to watch the live NFL telecast while simultaneously viewing and listening to the Governor's press conference. The audio was switched from the NFL game to the press conference. For reasons that remain unclear, for approximately the next six minutes and thirty seconds, the captioning did not function. During the period that the captions were not functioning, the critical information conveyed during the Governor's press conference was made available through the use of on screen graphics produced in compliance with Section

<sup>1</sup> The NOIC is addressed to WTXF as a "Multichannel Video Programming Distributor" (MVPD). WTXF is not an MVPD, but an over-the-air broadcast television station and responds to the NOIC as if a broadcast NOIC was sent.

<sup>2</sup> WTXF tested the broadcast box and prior to this use, it was used previously without incident, including on October 27, 2012 from 4:25 p.m.-4:51 p.m. The box allows the side-by-side display of two separate video presentations.

Susan Kimmel  
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79.2(b)(1)(i) of the Commission's rules. At approximately 4:41:30 p.m. the captioning resumed and continued to the end of the press conference. The captioning service uses a dedicated dial-in line into the station's master control to hear the broadcast audio that requires captioning. At the start of the Governor's press conference, the dial-in apparently did not work, and a delay was caused while the captioning service tried to resolve the dial-in issue. Eventually, the captioner was directed to and did monitor the over-the-air broadcast and began captioning using the over-the-air audio. To ensure this problem does not occur in the future, WTXF has directed its captioning service to have over-the-air broadcast available at all times as a back-up should the dial-in not function in the future.

WTXF remained in compliance with the requirement that emergency information be made available for people with hearing disabilities throughout the press conference. Compliance was maintained by first using a method of visual presentation other than captioning as specifically allowed by the rules and then by using captions once the technical difficulties described above were resolved.

Please contact the undersigned should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph M. Di Scipio", with a long horizontal flourish extending to the right.

Joseph M. Di Scipio

cc: [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov)  
Joshua Berman (via email)  
WTXF Public File

**From:** Di Scipio, Joseph  
**To:** "joshua\_berman@ymail.com"  
**Subject:** WTXF Disability Access Complaint - Closed Captioning  
**Date:** Wednesday, December 05, 2012 3:09:38 PM

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Mr. Berman, this is to acknowledge that WFXT has received your disability access complaint forwarded to WTXF by the FCC regarding the broadcast of Governor Corbett's statement about Hurricane Sandy broadcast on October 28<sup>th</sup> at 4:30 p.m.

We are investigating the matter and will file a response with the FCC and you will receive a copy of that response.

/Joe

Joseph M. Di Scipio  
Vice President, Legal and FCC Compliance  
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