



Federal Communications Commission  
Washington, D.C. 20554

March 25, 2013

Mr. Joshua Berman  
4815 B Tyson Avenue  
Philadelphia, PA 19135

RE: FCC # IC 12-C00436211 (WTXF)

Dear Mr. Berman:

This letter is in reference to the informal complaint, referenced above, that you filed with the Federal Communications Commission (Commission). A copy of your complaint is enclosed. The complaint implicates the Commission's rules requiring closed captioning. See Section 713 of the Act, 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1 *et seq.* Pursuant to the informal complaint process set forth in section 79.1 (g) of the Commission forwarded your informal complaint to the company named in the complaint, along with a Notice of Informal Complaint (NOIC). The NOIC instructed the company to file a response within 30 days of the date of the NOIC, and to send you a copy their response.

We have reviewed the informal complaint, the company's response and supporting evidence if warranted, and other information relevant to the claims made in the complaint. Based on the record, we find that the concerns you raised in your complaint have been addressed and, consistent with the complaint provisions of section 79.1 (g), no further action is required by the Commission. If you are still experiencing captioning problems, please file a new informal complaint using FCC Form 2000C an on-line complaint form found at the web site: [www.fcc.gov/cgb/complaints.html](http://www.fcc.gov/cgb/complaints.html). Please include detailed information e.g., the specific movie titles, dates and times.

Under the 21<sup>st</sup> Century Communications and Video Accessibility Act, there is a provision to improve user interfaces so consumers can access captions more easily. The Commission is in the process of drafting these rules. To stay informed about this and other disability issues, you may subscribe to a listserve provided by the Disability Rights Office. To do so send an email to [Accessinfo@fcc.gov](mailto:Accessinfo@fcc.gov) with the word "subscribe" in the subject line.

If you have any questions about this matter, please do not hesitate to write us at 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554, or call us at 1-888-CALL-FCC (1-888-225-5322). TTY users may dial 1-888-835-5322.

Sincerely,

A handwritten signature in black ink that reads "Susan Kimmel". The signature is fluid and cursive.

Susan Kimmel, Deputy Chief  
Disability Rights Office  
Consumer & Governmental Affairs Bureau

CC:WTXF



**FOX TELEVISION STATIONS, INC.**

A UNIT OF FOX ENTERTAINMENT GROUP

444 North Capitol Street NW, Suite 740  
Washington, DC 20001  
Phone 202 715 2350 • Fax 202 824 6510  
Cell 202 679 8567 • e-mail: jdiscipio@newscorp.com

**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  
December 26, 2012  
Page 2

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 "Joe M. Di Scipio", with a stylized flourish at the end.

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  
Fox Television Stations, Inc.  
444 North Capitol Street NW, Suite 740, Washington DC 20001  
Tel: 202.715.2350 | Fax: 202.824.6510 | Mobile: 202.679.8567  
[jdiscipio@newscorp.com](mailto:jdiscipio@newscorp.com)



**FOX TELEVISION STATIONS, INC.**  
A Unit of Fox Television

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12th Street, S.W.  
Washington, D.C. 20554

**OFFICIAL**  
**NOTICE OF INFORMAL COMPLAINT**

November 27, 2012  
(BERMAN) (WTFX Channel 29)  
FCC Case No. 12-C00436211-1

Attached is a copy of an informal complaint naming your company that was recently filed with the Disability Rights Office (DRO) of the Federal Communications Commission. Pursuant to Section 713 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1, we direct your company to respond to the complaint. **Your response is due within thirty (30) days of the date of this Notice.**

Your company, as the Multichannel Video Programming Distributor (MVPD), must respond specifically to each matter raised in the complaint and summarize the actions that it has taken to satisfy each such matter. If the programming at issue is reaching you without captions, in responding to the complaint, you have the responsibility to check with the supplying network or program producer before responding to determine that either the material is exempt from the captioning requirements pursuant to one of the categorical exemptions in 47 CFR §79.1(d) or pursuant to an individual petition for exemption filed under 47 CFR §79.1(f).

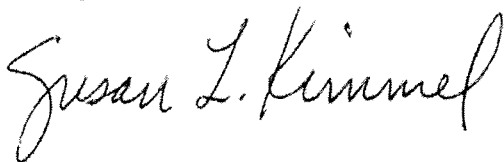
Please provide the complainant's name and the complaint number at the top of your response. A company that receives and responds to informal complaints electronically **must** submit its responses to the Commission via the FCC website using its DRO log-in. If your company does not receive and respond to informal complaints electronically via the FCC website, you must file a hard copy of your response with the Disability Rights Office of the Federal Communications Commission at 445 12th St., SW, Washington, D.C. 20554. Only if you are required to file a hard copy, please also send a courtesy electronic copy of the response to [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov) which will expedite processing.

You are further directed to send a copy of your response to the complainant at the time that you forward the response to the Commission. To ensure that your response is received by the complainant in an accessible format, please send it pursuant to the preferred format or method of response indicated by the complainant on the complaint form. Finally, your company is directed to retain all records that are or may be pertinent to the allegations raised in each complaint until final Commission disposition of the complaint at issue.

A failure to answer any lawful Commission inquiry is considered a misdemeanor punishable by a fine under Section 409(m) of the Act, 47 U.S.C. § 409(m). Section 503(b)(1)(B) of the Act, 47 U.S.C. § 503(b)(1)(B), provides for the imposition by the Commission of forfeiture penalties against any person who willfully fails to follow the directives of the Act or of a Commission order.

If you have any questions regarding this Notice, please call the DRO inquiries and complaints assistance line at 202-418-7020 or write to [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov). To ensure that we can adequately respond to your inquiry, please provide the names of the complainant and your company, the complaint number, and the specific questions that you would like to have answered.

Sincerely,



Susan L. Kimmel, Deputy Chief  
Disability Rights Office  
Consumer and Governmental Affairs Bureau



Admin 2000 [ Switch to Admin1088 ]

HOME    SERVE    SEARCH    NEW COMPLAINT    ASSIGN    ADMIN    HELP    DOWNLOAD

In-Process    Completed    Served    All In-Process    All Completed

solita.griffis [ADMIN] Logout

FOR FCC INTERNAL USE ONLY

Res 11/14/12

Direct-WT XF Channel 25

« Back to Complaints

Form 2000C (Disability Access Complaint) : 12-C00436211-1

## USER FORM

|                    |
|--------------------|
| User Form          |
| Admin Comments     |
| Serve Review       |
| Serve Process      |
| File Attachments   |
| Letters            |
| Show All           |
| Sub Complaints(0)  |
| Print Form         |
| Email Factsheet(s) |

Consumer Party History    Consumer History    Form History    Edit Form

User Complaint Number: 12-C00436211

User Complaint Key: 12-C00436211-1

Complaint Source: Web

Added User: Consumer

Submission date: 10/28/2012

## CONSUMER'S INFORMATION

First Name: Joshua

Last Name: Berman

Company Name:  
(Complete only if you are filing this complaint on behalf of a company or an organization.)

PO Box:

Address1: 4815 B Tyson Ave.

Address2:

City: Philadelphia

State: PA    Zip Code: 19135

Telephone Number(Residential or Business): (267) 331-4233    Ext:

E-mail Address: joshua\_berman@gmail.com

Are you filing information on behalf of another party, such as client, parent, spouse or roommate? **No**  
If yes, complete items a through h.

Your relationship with the party:

The party's first name:

The party's last name:

The party's daytime phone number: () - Ext:

The party's street address or post office box number:

City: State: Zip Code:

~~215-982-5318~~

215-982-5318

wt xf, fox 29 channel

fox tv.com

Philadelphia, PA

19106

330 Market St.

Jennifer Best  
Community Best

WTXF Channel 25

E-mail Address:

Fax Number: ( ) -

**IMPORTANT: Please indicate the preferred format or method of response to the complaint by the Commission and defendant:**

- ☐ Letter ☐ Facsimile (fax) ☐ Telephone Voice  
☐ TRS (designate form of TRS and appropriate contact information)  
☐ TTY ☒ Internet E-mail ☐ ASCII Text ☐ Audio-Cassette Recording ☐ Braille

**FORM 2000C:**

1. Check the appropriate box for your type of complaint:

- ☐ Telecommunications Relay Service (TRS) (i.e., TTY-based, IP Relay, CapTel, IP CapTel, Speech-to-Speech, Video Relay Service (VRS))  
☐ Accessibility of emergency information on television  
☒ **Closed Captioning**  
☐ Wireless telephone equipment or service (includes hearing aid compatibility and other accessibility issues)  
☐ Wire line telephone equipment or service (includes hearing aid compatibility and other accessibility issues)  
☐ Video Description (audio narrated descriptions of a TV program's key visual elements)

2. Provide the name, address and telephone number (if known) of the company(s) involved in your complaint:

Name: Fox

City: State: Zip Code:

Telephone number: ( ) -

3. If your complaint is about accessibility of telecommunications services or equipment, provide the make and model number of the equipment or device that this complaint is about:
4. If your complaint is about closed captioning or emergency information on television, provide the date (mm/dd/yyyy) 10/28/2012 Time: 04:30 PM and any details of when the event or action you are complaining about occurred: Watching football when the governor of Pennsylvania came to make a special announcement about Hurricane Sandy. It was not captioned.
5. If your complaint is about access to emergency information on television, provide the following information:
- a. Television station call sign and network name (if applicable), or channel name (e.g., "WZUF, CBC," "WZUE-TV," "Sportingchannel West"): WTXF
- b. Channel (e.g., "13"): 29
- c. Station or subscription TV provider system location:

City: **Philadelphia** County: **Philadelphia** State: **PA**

d. Date(s) and time(s) of emergency: **10/28/2012** and time **04:30 PM**

e.

Detailed description of the emergency (i.e., flood, hurricane, tornado, etc., as well as the areas in which the emergency occurred): **Hurricane Sandy**

6. If your complaint is about video description or closed captioning on television, provide the following:

a. Television station call sign and network name (if applicable), or channel name (e.g., "WZUF, CBC," "WZUE-TV," "Sportingchannel West"): **WTFX**

b. Channel (e.g., "13"): **29**

c. Station or subscription TV provider system location:

City: **Philadelphia** County: **Philadelphia** State: **PA**

d. If you pay to receive television programming, type of subscription service (e.g., cable, satellite): **Satellite**

e. If you pay to receive television programming, name of company to whom you subscribe: **Directv**

f. Name of program(s) involved: **Football**

7. Briefly describe your complaint and include the resolution you are seeking. If applicable, provide a full description of the telecommunications equipment or customer premises premises equipment (CPE) and/or the telecommunications service about which the complaint is made, and the date or dates on which the complaint either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made. **Watching football when the governor of Pennsylvania came to to make a special announcement about Hurricane Sandy. It was not captioned. Captions need to be available at all times for Deaf/Hard of Hearing people to know what is going on.**