

United States Government  
Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

RECEIVED

FEB 10 2009

THOMAS C. GRIESDORN

OFFICIAL

NOTICE OF INFORMAL COMPLAINT

February 9, 2009

In Reply Refer To: C00079066-FC  
WBNS-TV (██████)


**THE COMPANY IDENTIFIED IN THE ATTACHED COMPLAINT IS REQUIRED TO RESPOND TO THIS NOTICE OF INFORMAL COMPLAINT WITHIN 15 DAYS OF THE DATE OF THIS NOTICE.**

Failure of any person to answer any lawful Commission inquiry is considered a misdemeanor punishable by a fine under Section 409(m) of the Communications Act (Act), 47 U.S.C. § 409(m). Further, failure to comply with any order of the Commission can result in prosecution under Section 401(b) of the Act, 47 U.S.C. § 401(b). Section 501 of the Act, 47 U.S.C. § 501, and Section 503(b)(1)(B) of the Act, 47 U.S.C. § 503(b)(1)(B), provide for forfeiture penalties against any person who willfully fails to follow the directives of the Act or of a Commission order. The Commission can impose forfeiture penalties of up to \$1.2 million for certain types of violations.

The attached complaint was filed with the Commission pursuant to 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. A letter acknowledging your company's receipt of this Notice and of the enclosed complaint should be sent to each consumer Complainant as soon as your company receives this Notice. Pursuant to Sections 713 and 4(i) of the Act, 47 U.S.C. §§ 613, 154(i), and Section 79.1(g) of the Commission's Rules, 47 C.F.R. § 79.1(g), we are forwarding a copy of the complaint so that your company may satisfy or answer the complaint based on a thorough review of all relevant records and other information. Your company should respond specifically to all material allegations raised in each complaint and summarize the actions taken by your company to satisfy the complaint.

**Your response should include: (1) the Complainant's name, and (2) the Case number.** For hand deliveries, the Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m., Monday-Friday. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

Due to heightened security measures undertaken in Washington, D.C., and at this agency, you should also send an electronic copy of the response letter to [Cheryl.King@fcc.gov](mailto:Cheryl.King@fcc.gov). Companies are directed to send copies of their responses to consumers at the same time their responses are forwarded to the Commission. Each company required to respond to this Notice is directed to retain all records until final Commission disposition of the complaints. If you have any questions regarding this Notice, please call or email Francine Crawford at (202) 418-2085 or [Francine.crawford@fcc.gov](mailto:Francine.crawford@fcc.gov), and leave a detailed message specifying the calling company name, the Case number, and the specific questions that you would like to have answered.

  
Cheryl J. King, Deputy Chief  
Disability Rights Office/CGB

Attachment(s)  
K:613/79.1



Admin 2000

HOME SERVE SEARCH NEW COMPLAINT ASSIGN ADMIN HELP  
Basic Search Advanced Search

FOR FCC INTERNAL USE ONLY

francine.crawford [ADMIN] Logout

« Back to Complaints

User Form
Admin Comments
Serve Process
File Attachments
Letters
Show All
Sub Complaints(0)
Print Form

Form 2000C: 08-C00079066-1

USER FORM

User Complaint Number: 08-C00079066

Complaint Source: Web

CONSUMER'S INFORMATION

First Name: [REDACTED]

Last Name: [REDACTED]

Company Name:

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

Street Address or Post Office Box Number: [REDACTED]

City: [REDACTED] State: OH

Zip Code: [REDACTED]

Telephone Number(Residential or Business): [REDACTED] Ext:

E-mail Address: [REDACTED]

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:

party\_daytime\_phpne ( ) - Ext:

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

City: State: Zip Code:

E-mail Address:

Fax Number: ( ) -

ConsumerParty History

Consumer History

Form History

User Complaint Key: 08-C00079066-1

Added User: Consumer

Form History

Edit Form



**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:

- 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 (absence, quality or pass through High Definition (HD) programs)**

NOTE: If your complaint is about closed captioning only, you must first contact the station or video programming distributor. For additional information, see <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>

  - ☐ 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)

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

Name: **WBNS10tv**

City: **Columbus** State: **OH** Zip Code:

Telephone number: ( ) -

- 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:
- If your complaint is about closed captioning or emergency information on television, provide the date (mm/dd/yyyy) Time: and any details of when the event or action you are complaining about occurred: **This is ongoing with half of news being cc other half none cc.**
- If your complaint is about access to emergency information on television, provide the following information:
  - Television station call sign (e.g., "WZUE-TV"): **WBNS10tv**
  - Station channel (e.g., "13"): **10**
  - Station location: City: **Columbus** State: **OH**
  - Date(s) and time(s) of emergency: Time:  
Detailed description of the emergency (i.e., flood, hurricane, tornado, etc., as well as the areas in which the emergency occurred): **winter storm watch and advisory was not close captioned**

6. If your complaint is about closed captioning, provide the following:

- Station call sign (e.g., "KDID," "WZUF," "KDIU-FM," "WZUE-TV"): **WBNS10tv**
- Station frequency (e.g., "1020" or "88.5"); or channel (e.g., "13"): **10**
- Station location: City: **Columbus** State: **OH**
- Name of program(s) involved: **News, and other programs**

**Note: If your complaint is about closed captioning only, you must first contact the station or video programming distributor. For additional information, see <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>.**

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 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. I first contacted the station nov 5th to inform them that the feed for the presidential speech was not showing, i was told their equipment was fine it must be me i was watching the price is right before the news and it showed cc fine then the news comes on and nothing. this is an ongoing thing with WBNS they will start program and cc will show up 4 to 6 minutes into broadcast. they now are showing the news with a instert from the ohio news network that never has cc on it and the weather at noon also has no cc, so i guess i am supposed to guess about what the weather advisories are about.





B-  
File 4

February 24, 2009

**BY E-MAIL AND HAND DELIVERY**

Cheryl J. King, 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. C00079066-FC  
[REDACTED]

Dear Ms. [REDACTED]:

WBNS-TV, Inc., licensee of WBNS-TV, Columbus, Ohio ("WBNS" or the "Station"), hereby responds to the Notice of Informal Complaint ("NOIC") from your office dated February 9, 2009. The NOIC encloses a complaint from Ms. [REDACTED] of [REDACTED], Ohio. Your letter asks that we respond to Ms. [REDACTED] complaint.

In her complaint, Ms. [REDACTED] expresses concerns about closed captioning in four aspects of WBNS's broadcasts. Specifically, she notes that (1) "I first contacted [sic] the station nov 5th to inform them that the feed for the presidential feed was not showing"; (2) "a instert [sic] from the ohio news network" was not captioned; (3) "the weather at noon also has no cc"; and (4) the Station's noon newscast lacked captioning.<sup>1</sup>

At WBNS, we take seriously our obligation to ensure that our programming is accessible to viewers with hearing impairments, and we appreciate the opportunity to respond to Ms. [REDACTED]

<sup>1</sup> Based on an email from Ms. [REDACTED] to the Station, WBNS understands that this aspect of the complaint relates to the November 5, 2008 newscast. Ms. [REDACTED] also asserts that a "winter storm watch and advisory was not close captioned." The Station is unable to respond to this aspect of the complaint because it does not specify the date to which this allegation refers. The Station did not announce any winter storm watches on November 4 and 5, 2008, the period relevant to other allegations.

concerns. In this letter, we address in order each of the issues raised in Ms. [REDACTED] correspondence. We also describe our ongoing efforts to ensure high-quality captioning service for our viewers.

### 1. The Presidential Address Was Captioned

Ms. [REDACTED] complaint states that she was unable to receive the captioning of a "presidential speech." During the November 4-5, 2008 period, WBNS broadcast a speech by President Bush from the White House on November 5, 2008, which began at approximately 10:40 a.m. In addition, we broadcast then-President-elect Obama's victory speech on the evening of November 4, 2008.

WBNS records the signal that we broadcast from our transmitter, and we keep archives of those recordings for a limited period of time. Upon receiving Ms. [REDACTED] email, we reviewed the recording of both speeches. With respect to both, we confirmed that WBNS passed through the real-time captioning provided to the Station by the CBS Television Network.

### 2. WBNS's ONN Promotions Are Exempt From Captioning Requirements

Ms. [REDACTED] states that WBNS is "showing the news with a instert [sic] from the ohio news network that never has cc on it." On some newscasts, WBNS broadcasts a one-minute promotional clip provided by the Ohio News Network ("ONN"), a cable news channel owned by WBNS's parent company that is devoted exclusively to Ohio news. In these occasional broadcasts, an ONN on-air personality announces news items from around Ohio that are being covered on ONN in an effort to encourage viewers to watch ONN's programming. During each promotional announcement, the ONN personality identifies ONN as the source of the news and typically suggests that other news items are available on ONN's cable channel.

Under Section 79.1(d)(6) of the Commission's rules, 47 C.F.R. § 79.1(d)(6), closed captioning is not required for "[i]nterstitial material, promotional announcements, and public service announcements that are 10 minutes or less in duration." As the Commission noted when it adopted that rule, "the large number of such programs, the brief period from their creation to airing, and their short shelf life make captioning these programs expensive and logistically difficult."<sup>2</sup> For this reason, "the cost of captioning this material and the resulting logistical problems would appear to be disproportionate to any benefits received."<sup>3</sup> Because they last for approximately one minute and exist exclusively to promote the news stories covered on ONN, the ONN promotional announcements are exempt from the Commission's captioning requirement.

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<sup>2</sup> *Closed Captioning and Video Description of Video Programming*, 13 FCC Rcd. 3272, ¶ 151 (1997).

<sup>3</sup> *Id.*



### **3. WBNS's Unscripted Noon Weather Reports Are Exempt From Captioning Requirements**

As Ms. [REDACTED] notes, the unscripted weather forecast in the Station's noon newscasts routinely is not closed captioned, as permitted by Section 79.1(e)(3) of the Commission's rules, 47 C.F.R. § 79.1(e)(3). That provision allows stations outside of the top 25-ranked Nielsen Media Research designated market areas ("DMAs") to caption "[l]ive programming or repeats of programming originally transmitted live" using the "electronic newsroom technique." WBNS is located in the Columbus, Ohio DMA, the 32nd-ranked television market in the country.

Through the electronic newsroom technique, WBNS "uses computer software to create closed captions from the text in [the] station's news script computer. Only text transmitted from the scripting computers onto the teleprompter is captioned by this method. Thus, the electronic newsroom technique does not provide captions for unscripted material, such as breaking news, live reports from the field, and some weather and sports reports."<sup>4</sup>

Although the Commission's rules have long allowed us to use less-expensive electronic newsroom captioning for our newscasts, the Station historically used real-time captioning for every newscast. Because of financial pressures, however, we have made the difficult decision to discontinue real-time captioning for our less frequently watched newscasts, which air at 5 a.m., noon, and 5 p.m. WBNS continues to provide real-time captioning for our most heavily-viewed newscasts airing at 6 a.m., 6 p.m., and 11 p.m.

For the WBNS newscasts that use the electronic newsroom technique, unscripted portions of the presentation, such as our weather forecasts, are not captioned. However, WBNS uses a variety of visual tools to ensure that weather information in these electronic newsroom newscasts is available to viewers with hearing impairments.<sup>5</sup> For example, the Station uses a combination of open textual crawls, color-coded weather maps, and full-screen slates listing key information to provide weather details to viewers who cannot hear the broadcast.

### **4. WBNS's Captioning Policy Was Not Followed During Its November 5 Noon Newscast**

As explained above, WBNS recently switched from real-time captioning of the noon newscast to electronic newsroom technique captioning. Because we continue to offer real-time captioning in other newscasts, this change requires production personnel to activate electronic newsroom captioning prior to each noon broadcast. Station management notified the relevant staff of the need to take this step, and our noon newscasts are routinely captioned. However, our

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<sup>4</sup> Fact Sheet, "Accessibility of Emergency Video Programming to Persons With Hearing Disabilities," 16 FCC Rcd. 15350, 15353 (2001).

<sup>5</sup> WBNS has additional policies that apply to broadcasts that include emergency weather information.

investigation of Ms. [REDACTED] email revealed that, on November 5, 2008, the noon newscast did not include electronic newsroom captioning. We discovered that this problem was due to human error.

Based on Ms. [REDACTED] correspondence with us – and prior to receiving notice of Ms. [REDACTED] FCC complaint – we took several steps to enhance the procedures that our staff follow surrounding closed captioning. First, we communicated in person and in writing with the directors of our newscasts, alerting them to the error and reiterating the necessity of ensuring that the closed captioning system is functioning during every newscast. Second, we ensured that the steps required to enable electronic newsroom captioning are included on the pre-broadcast control room checklist followed by our technical staff. Third, we have posted the procedures necessary to reestablish captioning in the event of any interruption so that all of our technical staff will be able to address captioning issues on an immediate basis. Fourth, we have reminded our directors, producers, and master control operators of their responsibility to carefully observe closed-caption enabled monitors that have been placed in the master control room, the production control room, and at the producer's station. Finally, we have alerted each of our directors that we will hold them personally responsible for compliance with our closed captioning obligations during the newscasts they direct and that they may face consequences, potentially including termination, for any failure to comply with our closed captioning procedures. We believe that these additional steps will provide important safeguards to ensure that all of our newscasts, whether real-time captioned or captioned through the electronic newsroom technique, will remain accessible to all of our viewers.

\* \* \*

WBNS is committed to ensuring that our broadcasts meet the needs of all of our viewers, including viewers with hearing impairments. Upon learning of Ms. [REDACTED] concerns, we immediately took steps to investigate the issues that she raised. With respect to three of the four issues, we confirmed that the referenced programming either was captioned or was exempt from the Commission's captioning rules. With respect to the fourth complaint regarding the noon newscast, we confirmed that this newscast is captioned using the electronic newsroom technique in compliance with the Commission's rules, but that there was a failure to caption on the date referenced by Ms. Davis because of human error. As a result, we have taken additional steps to enhance and enforce our captioning policies so that we can be confident that appropriate captioning is always provided with respect to our programming and that we continue to serve our viewers in full compliance with the Commission's rules.

Sincerely,



Tom Griesdorn  
President & General Manager

cc: Ms. [REDACTED]





February 13, 2009

Ms. Brenda Davis  
11 McDavid Dr.  
Galion, Ohio 44833

Re: Notice of Informal Complaint - FCC No. C00079066-FC

Dear Ms. Davis:

WBNS-TV, Inc. ("WBNS"), licensee of WBNS-TV, Columbus, Ohio, has recently received the above-referenced notice of informal complaint, dated February 9, 2009, regarding WBNS's provision of closed captioning during certain news broadcasts. WBNS takes very seriously its obligations to provide closed captioning and will respond to the Informal Complaint shortly. WBNS will provide you with a copy of the station's response when it is filed with the FCC.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Tom Griesdem'.

Tom Griesdem  
President & General Manager  
WBNS/Ohio News Network

cc: Francine Crawford, FCC (via e-mail)  
Cheryl King, FCC (via e-mail)