



Via Email and Regular Mail
jenifer.simpson@fcc.gov

August 22, 2003

Ms. Jenifer Simpson
Specialist, Consumer Inquiries & Complaints Division
Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: **Complaint FCC No. 03-N89391 - Ms. Barbara Jane Howard**

Dear Ms. Simpson:

We are in receipt of the above-captioned complaint dated July 25, 2003 from Ms. Barbara Jane Howard regarding emergency information broadcast in video programming on WCFT-TV/WJSU-TV ("ABC 33/40"). Ms. Howard alleges that the video information relating to tornados and severe weather in the Birmingham, Alabama area on May 2nd and 4th 2003 was insufficient under the Commission's rules. Specifically, Ms. Howard alleges that ABC 33/40 did not present specific emergency information in a visual form during an unspecified time of the day and that, during another unspecified storm alert, the information on the screen was insufficient. Ms. Howard also complains that a non-emergency story also was not captioned.

ABC 33/40 is cognizant of its obligations to provide emergency information in graphic form or by captioning. It has specifically designed its facilities to provide exactly that in the event instructions are provided to viewers as to how to respond to local emergency situations so as to ensure safety of life or property. Attached is a copy of the station's policy.

In that context, ABC 33/40 has reviewed its records for May 2, 3 and 4, 2003. Unfortunately, the station does not retain air-check copies of its program day that far back. The air-check tapes are recycled after one month and the station did not receive Ms. Howard's complaint for almost three months after the events. We were able, however, to access the actual database of severe weather used by our weather staff on those days and also reviewed our daily program logs.

Our typical procedure, designed to specifically meet the needs of the hearing impaired community and to be in compliance with §79.2 of the Commission's Rules, provides that the station will run a crawl at the top of the screen during emergency cut-ins so as not to block any closed captioned programming. On May 2, ABC 33/40 aired its regularly scheduled newscasts during which its weathercaster would normally provide viewers with multiple graphical updates as to storm patterns, expected timing and immediate forecasts. For preempted, non-newscast programming, the station would have aired a crawl on the screen top pursuant to its established procedure along with its weathercaster showing graphical maps and video of specific locations. Without the air-check, however, we cannot verify that happened and without a reference point for time of day, we cannot verify from our program logs whether standard programming was preempted or not. The time codes referenced in the complaint appear to coincide with a videotape provided to the Commission, not to the actual broadcast day.

Ms. Howard also complains about the lack of video captioning on a news story aired on May 3, 2003 concerning the football coach at the University of Alabama. Captioning or otherwise graphically reporting non-emergency stories is outside the requirements of §79.2 of the Rules. Please note, however, that the story did air with captions in the station's regularly scheduled newscasts that day.

With respect to Ms. Howard's complaint that emergency information concerning a major storm alert was not visually displayed on May 4, 2003, our review of the database for that day discloses no tornado warnings and no severe thunderstorm warnings. In fact, the review indicates that it was a beautiful day. The station's primary weathercaster's calendar shows that he was a guest at the "Bruno's Memorial Classic" that afternoon signing autographs on a sunny day without any rain at all much less a major storm. Since the station does not have an air-check for that date and does not have access to the videotape submitted by the complainant with a specific time reference, we cannot comment on the discrepancy.

What we can say is that ABC 33/40 is not only cognizant of its responsibilities under the Commission's rules, but we have developed a visual information system specifically with the hearing impaired community in mind that conveys vital emergency information on a real time basis. That said, we appreciate Ms. Howard's perspective and will redouble our efforts to insure that ABC 33/40 maintains its high quality commitment to the hearing impaired community, including the provision of video graphics that explain emergencies with a crawl or other useful method whether the emergencies occur within newscasts or during regular programming.

To the extent you have additional questions or concerns, please contact the undersigned.

Respectfully submitted,

Frank S. DeTillio vH

Frank S. DeTillio
Vice President and General Manager

Attachment

cc w/attach: Ms. Barbara Jane Howard
413 Howard Dr. SW
Bessemer, AL 35022

WCFT/WJSU Public Inspection File



MEMORANDUM

TO: Department Heads

FROM: Frank DeTillio

SUBJECT: Emergency Broadcast Information Policy

Serving the needs of our entire community is at the heart of what we strive for at ABC 33/40. This includes our hearing and visually impaired community. During emergencies, our goal is to provide the most complete information as quickly as possible, and for the hearing and visually impaired community this means transmitting stories in a way that they can understand and take action. Our station's policy is set forth below. Please make sure that your people are aware of this policy and institute procedures to see that it is effectuated. Emergencies by their nature are not planned and when they hit, regulatory compliance is usually not "top of mind." Therefore, the appropriate staff needs to be trained *now* and equipment/procedures need to be in place so that the proper steps are taken when the chaos of an emergency strikes.

The FCC Rule

When the Station provides "emergency information" to all viewers, "critical details" must also be given to people with hearing and visual disabilities. This requirement is applicable:

- 1) Within regularly scheduled newscasts;
- 2) Within news cut-ins that preempt regular programming; and
- 3) When there is **no program interruption**, but instead emergency crawls or squeeze-backs are used.

Our Procedure

1. Video (To assist the hearing impaired).

"Critical details" must be *visually displayed* (open captioned, crawled or scrolled). Crawls/scrolls cannot block closed captioning and closed captioning

cannot block the crawls/scrolls. Consequently, crawls should be done at the screen top or in a squeeze-back. If we are not offering **live, real time** closed captioning for these emergency events, then squeeze-backs, open captions, scrolls or crawls are required. Electronic News Room relays of scripted material will normally *not* be useful since much of emergency information is unscripted.

2. **Audio (To assist the visually impaired).**

"Critical details" must be *aurally announced/described*. This is required during scheduled newscasts or news break-ins. References by the newscasters to visual maps or lists are not enough; the critical details must be aurally explained. If there is no newscast, but simply a scroll or squeeze-back warning is used, then an *aural tone must alert* visually impaired viewers to tune to a radio or other information source.

"Critical Details"

"Critical details" of emergency information are those facts that help protect life, health, safety or property. They include:

- 1) Areas affected by the emergency;
- 2) Evacuation orders;
- 3) Evacuation routes;
- 4) Road closures;
- 5) Time frames of the emergency;
- 6) Safety recommendations.

"Emergencies" for purposes of these rules are *not limited to EAS Alerts*. They include *weather events* like flood warnings, hazardous snow/ice warnings, tornados and hurricanes. They also include *news events* that may have dangerous implications for viewers or significant road closures. For example, stories involving snipers, riots, demonstrations, hostage situations, terrorist-related events, severe accidents and environmental situations (spills, leaks, etc.) would be the types of stories for which the "critical details" must be provided.



P.O. Box 360039
Birmingham, AL 35236

Ms. Barbara Jane Howard
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Bessemer, AL 35022

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