

Lugar, Senator (Lugar)

From: neal halstead [nealdan@yahoo.com]
Sent: Saturday, August 27, 2005 12:07 PM
To: Lugar, Senator (Lugar)
SUBject: comcast sports net

05 AUG 29 11:11

Aug. 28, 2005

Hon. Richard Lugar
US Senator
Washington, D.C.

Dear Sir,

I have written to you before. I live in Ossian, IN
PO Box 615, Ossian, 46777, street address is 408
countryslde Dr. I get cable TV with comcast. They have
a channel on it called "Comcast sports net." Fox TV
used to own all these cable sports networks. Fox still
has many "Fox sportschannels, fox sport net," on cable
TV in other cities and states. I wrote to comcast
sports net about this a week ago. There was no
response from them.

Comcast sports net does not have any Closed
captions programs for deaf to watch. I'm hard of
hearing about deaf from work in factories. I can't
hear these programs, I have not been able to hear TV
from about 1992 to now. I got my first closed caption
decoder in 1992. Fox sportschannels started in about
1997, the first year or two they weren't closed
captioned. But now most of their programs, about 80%
are closed captioned. Fox sportschannel used to be on
comcast here in Ft. Wayne, IN and Ossian for many
years from 1997 to now. So why even take it off? I
don't know. But they put their own cable thing,
comcast sports, and none of it is closed captioned. I
challenge them to find one program that is of any
length, that is closed captioned. Because none are.
Their ads for tv time many are c.c. And they pay for
the captions of the programs, but comcast is so greedy
they won't obey the law and have c.c. ✓

The Federal congress and Senate in 1998 passed a
law that said that if a cable or free TV station,
makes more than one million dollars a year, they have
to have closed captions from 6 am to 12 midnight, 7
days a week, 365 days a year. This is a gradual law,
that from 98 to 2006, the amounts increase each year
till Jan of 2006, they have to have 100% C.c. Right
now I guess they have to have about 90% c.c. Again
Comcast sportschannel does not have any, zero, zilch
C.c. You need to contact the FCC about this. They need
to contact comcast. Comcast makes about one billion
dollars a year, they are not some small local tv
channel, or new channel. Comcast has been in Ft. Wayne
and Ossian since 1990 when I moved here in 1990. They
probably were here before that too. So it is a big
company and they have been here at least 15 years. ✓

I see this all the time when I go to a Dr. or go
to an apt. complex or any business, and the Soc. Sec.
office, and welfare office. None of those places obey
the ADA laws, American with Disabilities, passed in
1990. Why did the Govt. pass this law if they will not
enforce it? I was at a Dr. a week ago. I told him I
can't hear, you have to use sign lang. or write words

on paper, but he won't do it. I went to S.S. office two weeks ago, same thing there. This is Fed. Govt. and they won't obey Fed. laws. So question is why pass a law if you are not going to enforce it? I don't have money to sue all these Dr.s and businesses about this. I don't have money to sue comcast sports net about this. This is the law about closed captions, they have to obey it. You have to decide if you or the FCC is going to enforce it. Fox sports channels have about 80% C.c. Why did comcast put their own thing in there, and having done that, then they have to have 80% c.c. same as fox sports does. I mostly want c.c for baseball, basketball and football games. Also they have a sports news program from about 10 pm to 11 and that news programs need to be c.c. fox sports channel again c.c. their sports news and also many of the baseball, basketball and other sports.



Thank you.

Sincerely
Neal Hausmann

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

Delores Long

From: nealdan@yahoo.com
Sent: Saturday, September 17, 2005 11:26 AM
To: deloresl@wpta.com
Subject: General Manager

Name: Neal
Email: nealdan@yahoo.com

Dear Sir, I watch channel 21 about every day. I'm hard of hearing deaf, and need closed captions to read on tv and know what is being said. ABC does a great job with closed captions. They are words that are printed on the screen. The last few weeks I would see that your people would turn the captions off after your 11 pm news. Many of Nightline programs did not have captions on till the last ten mins. or so. Last night your people turned captions off about 6:30 pm. They were not on all night for the ABC evening news or for the 8 to 11 sit corns and movies, and Nightline did not have any captions, and the man that has talk show after nightline, did not have captions. I tape all those programs every night. I still have the tape. I did try to watch it today, but I can't hear, so how can know what they're saying? This is something that your people are doing. They have done this for many weeks. There is no reason to turn closed captions off. Leave them on! This is a Federal law, two laws, one is ADA law passed in 1990 Americans with Disabilities. The other law is FCC law in 1998. You have to have closed captions on. You can't turn them off. It's the law. I can write to my Senator right now on the computer, he can contact FCC and FCC can fine you for that. I still have the tape from last night. I noticed this morning you have ABC cartoons. So you tum captions on **this** morning for the cartoons. But I guess tonight when the national news and movies are on, you will turn them off. Just leave them on, there is no reason to turn them off. All the local channels here seem to have sticky fingers. Maybe it's because you delay all the programs one hour. It's 7:30 in OH when you have 6:30 news. It's 9 pm in OH when the 8 pm movies are on. I will be happy when daylight saving time is finshed. All three networks here decided two years ago to delay programs an hour, and it messes up everything. You don't even have national news evening news, on the weekend usually, maybe the CBS channel does, NBC does, but you don't. I think last Sat. at 6:30 pm you had some silly program about fish and whales. It wasn't even a local thing. Why have it on? Sun. was sanle thing, you had some other program at 6:30. So you're screwing up all the national programs. I have cable TV. There's 76 channels. You are only one channel. I can watch many news channels or movies or other programs on those channels. Most or all are closed captioned. They don't tum the captions off simply because they have sticky fingers. So if you want ratings, and don't want FCC on you, I suggest you leave the closed captions on. Sincerely Neal

2/14/2006

Lugar, Senator (Lugar)

From: neal halstead [nealdan@yahoo.com]
Sent: Friday, December 23, 2005 10:30 AM
To: Lugar, Senator (Lugar)
Subject: closed captions

Dec. 22, 2005
PO Box 615
Ossian, IN 46777

Hon. Sen. Lugar
US Senate
Washington, D.C.

Dear Sir,

Hello. My name is Neal Hausmann. I live in Ossian, IN. Street is 408 Countryside Dr. I get mail at above PO Box. I get cable TV. I have a problem with a free TV channel in Ft. Wayne, that is also on cable TV.

I looked for their call letters, and can't find them, but this is channel 21, and they are an affiliate of ABC national TV network. ABC TV has had closed captions on all their programs from 1980 to now. I don't have any problem with ABC, my problem is with the local station in Ft. Wayne. Closed captions are where they print the words a person is saying on TV, and if a person at home has the TV set for closed captions, and if the network or the station has them, then the person can read the words and know what is said. I'm hard of hearing deaf person, and have used closed captions from 1992 to now.

For some unknown reason, from about Aug. 15 to now, 2005, the local ABC channel, 21, will turn off the closed captions from ABC, every time there is a commercial comes on. Then when the commercial is finished, they either "forget" or they fall asleep, or they deliberately don't turn the captions back on. ABC had a movie "The Sound of Music," on Sunday night, last Sunday. Most of the movie the local channel had the captions off. There are many programs every night. I think Tues. Barbara Walters had a program about "Heaven." The local channel again had the captions off for more than half of the program. "Nightline" came on at 11:35 and some of "Nightline" the captions were still off. This has been a continuous problem for many months now, 5 months.

I wrote to the director or manager of channel 21, in Sept. or Oct. about this. And told him this is a law. It's a Fed. law. It's part of ADA laws in 1990, also it's a law with FCC that was passed by Congress in 1997 or 98, that any TV channel or cable TV, that makes one million dollars \$1,000,000, a year, has to have closed captions on all day from 6 am to 12 midnight. Most of these local stations do not obey this law. But again I wrote to the manager and I did save the letter, so he did get it. He can't say he didn't get it.

I waited several months and hoped he would fix

SK/Mark D. ??



that problem, or at least write to me, explain why his people keep turning captions off, and don't have them back on for maybe 30 mins sometimes or 15 mins. But he did not respond to my letter, that was back in late Sept. or maybe 1st of Oct. This is now Dec. 23. Why does the tv station need to turn captions off when a commercial comes on. Because to my knowledge, no cable channels do that. They have commercials on all day long, and have closed captions on all day and most of the night. I watch CNN, Fox cable news, Headline News, USA channel, TNT channel, Family channel, History channel, many others, and they have closed captions on aIda lon, they do not turn them off if a commercial comes on. This local station 21, has been doing this for four months now, and it's on National network movies and news, evening national news. Many of these news and movies I want to see, and can't because the local station turns off the captions, which is illegal, against Fcc laws and ADA laws and laws passed by US congress in 1998 and 1990.

I wrote to FCC about this problem a month ago. They like most Federal agencies, will not respond to a letter from an ordinary person. If the mayor writes to them or a Congressperson or Senator, or a Banker or Lawyer, or any VIP, then sure, they'll respond to them, and they will enforce laws for VIP people. But if an ordinary person writes to them, and this is the law, but the FCC does not care and will not enforce the law. So FCC did not enforce the law and did not write to me. My address again is at the top of this letter either my street or mailing address. In the past, you too will not respond or help me. This problem is about ratings. I explained this to channel 21. There's 200,000 people in Ft. Wayne, maybe 50,000 outside that can get this channel on their antennas, maybe another 50,000 get it on cable tv. 10% of the pop. is deaf or severely hard of hearing and use closed captions. channel 21 only gets 10% of ratings now, ABC and these networks get 10% because of all the cable channels. Most people have cable tv, even though it's high priced. Deaf people are 10% of 100% pop. but if a station gets 10% rating then 1% of that is deaf people or 10% of the 10% is deaf. Deaf people can go to other network channels on free TV. There's six channels on free tv in ft. Wayne. There's 76 channels on cable tv, there's about 150 channels on high definition cable and on satellite dish tv. So this channel 21, is just one channel of 75 or 150 channels, and people don't have to watch them. This is a free country. It's like K Mart a few years ago. They didn't care about the customers. Customers went to Wal Mart and Meijers, K mart lost lot of money. Had to close stores all over the US. One store was closed in Ft. Wayne, also in Angola, IN, probably in Indianapolis also. We don't have to watch channel 21. At the end of Dec. I'm going to stop watching it. I tape it every day, have taped it for many years, over 10 years, 15 years, from 1990 on. So I have the tapes right here. Channel 21 can say they have captions on, which is a lie. I have the tapes right here. And every night they screw up the captions. Usually when the program first starts, the captions will be on till the first commercial, and then they turn them off for maybe 30 mins later they suddenly remember to turn them back on. It looks like their man was asleep, and woke up or maybe was making out with his girlfriend or the

secretary." Any cas they are off, so come on for 15 mins and then they're off again for 30 mins. So in a three hour time from 8 pm to 11 pm, we get captions one hour, but it's not continuous hour, it's 15 mins is all, and it's off for two hours. But ABC has the whole night and whole day closed captions.

I will say too, one time NBC said it cost them one million dollars \$1,000,000. to close caption programs all year long, or maybe it was \$2,000,000. Back then five years ago, they didn't caption, late night programs, Sat. Night Live, David Letterman. My point is that the national network pays a lot of money to have these programs closed captioned, and then the local channel 21, says we don't care and so they turn captions off that national network has on. And all these local channels do this many times a week. If they want to have a weather bulletin or any thing about the city, then they cancel the national networks closed captions. So I am writing to you and hope that your people will contact FCC. Several years ago FCC slapped fines on local channel on CBS for having Janet Jackson at the Super Bowl, and a man tore her shirt off. But the CBS channels did not know what would happen, why blame them? Here this channel is deliberately disobeying the law, and I wrote to FCC about it, and they will not enforce the law, or fine this channel. They should fine them probably \$10,000 for every month this has happened, it's been four months now. But I know that since they're a business, FCC won't do anything. Since I'm an ordinary person, FCC won't care. Will you care. I've voted for you before. MY vote cancels out these businesses. So I hope you will help me. Thank you.

Sincerely

Neal

yours

Hausmann

Yahoo! for Good - Make a difference this year.
<http://brand.yahoo.com/cybergivingweek200S/>

COMPLAINT FOR NEAL HAUSMANN

Complaint Type: Cable

Account Type: Residential

Congressional Complaint

IC Number:	06-N96835	Case Type:	Complaint
Date Received:	01/20/2006	Complainant:	Neal Hausmann
Date Entered:	01/20/2006	Date Assigned:	01/20/2006
Entered By:	Jenifer Simpson	Date Reassigned:	
Assigned To:	Jenifer Simpson/FCCIN	Service Date:	01/31/2006 12:00:00 AM
Date Closed:		Served By CGB - Jenifer Simpson	
Closed By:		Response Date:	03/02/2006
Close Letter Needed?	<input checked="" type="radio"/> Yes <input type="radio"/> No	Original Analyst:	
		Purged By:	Purged Date:
		Removed By:	Removed Date:

Current Status: Pending Carrier Reports

Associated Case:

Complaint Summary:

Consumer sent two email complaints to Senator Lugar (IN) complaining about lack of closed captioning on two tv channels. These complaints were forwarded to the FCC for responses to the Senator and for any further steps that could be taken.; Consumer indicates in his December 23, 2005 complaint email asserts that he "wrote to the director or manager of channel 21 in Sept. or Oct about this." Mr. Hausmann asserts also that "he did not respond to my letter." The consumer asserts that he has videotapes for Channel 21 programming that show there is no closed captioning, that "every night they screw up the captions. He states this occurs during the period from 8 p.m. to 11 p.m. daily: "Usually when the program first starts, the captions will be on till the first commercial, and then they turn them off, then maybe 30 mins later they suddenly remember to turn them back on."; His August complaint asserts that a channel previously captioned, Fox Sports Net, was moved to a Comcast sports cable channel and is no longer closed captioned.; Consumer sent an email complaint to the FCC 1/28/2006.

Apparent Carrier(s): Comcast
 WPTA-TV Ch 21 ABC Ft. Wayne, IN
 Comcas! Sports Channel

Yes << Check here if you wish to serve both a Wireline and Wireless carrier.

Problem Number:			
Title: None	First Name: Neal	Middle Initial:	Last Name: Hausmann
Contact Name:	Best Time to Call:		
Contact Number: Ext.	Consumer's Telephone Number:		Ext.
Fax Number:	TTY Number:		
Email Address: nealdan@yahoo.com	Internet Address:		
PO Box: 615	Address:		408 Countryside Drive
City: Ossian	State: IN	Zip: 46777	

On Behalf Of:	
Company Name:	
Party's Name:	Relationship with the Party:
Party's Contact Number: Ext.	PO Box:
	Address:
	City: State: Zip:
Other Party that can be contacted?	
Name:	Relationship:
Contact Number: Ext.	Address:
	City:, State: Zip:

Lugar, Senator (Lugar)

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Neal

Yahoo! for Good - Make a difference this year.
<http://brand.yahoo.com/cybergivingweek200S/>

Lugar, Senator (Lugar)

From: neal halstead [nealdan@yahoo.com]
Sent: Saturday, August 27, 2005 12:07 PM
To: Lugar, Senator (Lugar)
SUBject: comcast sports net

05 AUG 29 11:57

Aug. 28, 2005

Hon. Richard Lugar
US Senator
Washington, D.C.

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probably were here before that too. So it is a big
company and they have been here at least 15 years. ✓

I see this all the time when I go to a Dr. or go
to an apt. complex or any business, and the Soc. Sec.
office, and welfare office. None of those places obey
the ADA laws, American with Disabilities, passed in
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and they won't obey Fed. laws. 80 question is why pass
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I don't have money to sue comcast sports net about
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same as fox sports does. I mostly want c.c for
baseball, basketball and football games. Also they
have a sports news program from about 10 pm to 11 and
that news programs need to be c.c. Fox sports channel
again c.c. their sports news and also many of the --
baseball, basketball and other sports.

Thank you.

Sincerely
Neal Hausmann

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

nealdan@yahoo.com wrote on 1/28/2006 9:43:38 AM :

Dec. 7, 2005

FCC
Washington, D.C.

Dear Sirs,

I live in Ft. Wayne, IN. This is a city of 200,000 people. There are 6 broadcast TV stations here. I'm a hard of hearing deaf person. I lost my hearing as an adult. I have used closed captions from 1992 to now. I can't hear words on TV and only way I know what is said is to use closed captions.

Several months ago, actually in early Sept. I began to notice that the ABC affiliate station in Ft. Wayne, WPTA, Channel 21, would turn off the closed captions many times every evening. I have taped national broadcasts like the 6:30 national news and the movies from 8 pm to 11 pm and also "Nightline," at 11:35 also the talk show "Jimmy Kimmel Live" at 12:05 am. I have taped all these shows for many years, ten years. Because I don't like to have to watch it live and have to sit and wait for commercials to get done. So I have many of these programs on tape. But I usually erase the tape the next day. So WPTA could turn off the closed captions as soon as a commercial comes on, and then when the ABC program resumes, they forget to turn the captions back on. Sometimes an hour, two hours, all night long, they do not have the closed captions on. It does them no good to lie about this, because I again have it on tape. Many people tape those programs right here in Ft. Wayne. All you have to do is get those tapes. Last night Dec. 6 is a good example. About half of the 6:30 national ABC news was not closed captioned. But this is not ABC fault, this is the fault of the local ABC channel in Ft. Wayne. They turn the captions off. They have their own syndicated shows from 7 pm to 8 pm, I usually tape it, and the captions were on, and they don't mess with their local stuff because they want ratings. Then at 8 pm again they turned the captions off. I don't remember the name of the program, I think it was a situation comedy, and the captions were off about an hour, then I guess the guy who works there at night, woke up, and he said, "I better turn captions on now," so he had them on a few mins, and then the next commercial he turned them off again. Same thing with "Nightline." I have watched Nightline from 1979 to now. From their first broadcast in 1979, way before cable TV, probably before this channel in Ft. Wayne. I lived in Kansas City, MO back then. Nightline has been closed captioned from the early 1980's to now. This channel in Ft. Wayne until about Sept. would have it closed caption every night. But now they turn the captions off. I think last night they were talking about the war in Iraq or the Saddam trial. But the local station had the captions off.

This again has happened thousands of times from about Aug. 18 to now. I used to be in OH for part of the month and then come back to IN part of the month, like in July. In July this station had closed captions on about all the time, same in June and May, April, March. For some unknown reason suddenly near the end of Aug. to now, they suddenly turn captions off when we want to watch national programs. To me they have sticky fingers. I wrote to the manager of this station in Sept. about this. There was no response from him. I told him this is a Federal law, it's part of ADA laws, also US Congress passed another law in 1998 that stations with more than \$1,000,000 a year income have to have closed captions. Thing is, this is not the local station's programs. They don't close caption any local stuff except syndicated programs that are cc at the national stations. They don't close caption local news, don't close caption the weather or sports, or where they interview a person live, none that is cc. I stopped watching local news many years ago 1990. Because it's not cc.

What I'm complaining about is national programs that are and have been cc for 20 years, 25 years now. And the local station think they're God and they can turn off the captions whenever they want to. Again I wrote the manager and told him the law. He did not respond, he did not care. This was way back at the end of Sept. I waited about a month before I wrote to him. I get cable TV, there's 76 channels. Most of those channels are cc. The channel does not turn off the captions every time a commercial comes on. CNN has cc all day and night, ESPN has all day and night, Fox news has cc all day and night, CNBC, MSNBC, Family channel, USA, Lifetime, TNT, TV Land, History channel

(written w/)

06-N 96835

many others, have cc most of the day and night. So this is outrageous to me that this is a national affiliate, and they don't care. You really should slap a big fine on them till they get the message. It's against the law to turn the captions off. Thing is too that with so many channels on cable, a deaf person just watch cable, they won't fool with this silly local channel. And there's five other free channels and they all have cc on all day and all night. So if a person does not have cable, they just go to these other free channels. And this ABC channel loses a lot of ratings.

There's ten percent of the population that's severely hard of hearing or deaf and uses closed captions. Most of these network channels only get about 10 percent rating now, they used to get 30 percent. So if 10 percent of the pop. is deaf and this channel has 10 rating and those deaf don't watch the channel, the channel loses 1 rating point or 1 percent of total ratings. 1 percent of 200,000 people is 2,000 people. With cable, this channel is more than 200,000 people probably 300,000, so they lose between 2,000 and 3,000. But bigger point is it's the law. They have to obey the law, and they are harming people who are deaf and can't do anything to help themselves to hear.

What if this channel turned the audio off all the time like they do with cc? I mean they'd get thousands of calls the first day. You would get thousands of calls and letters the *first* day. I have waited patiently for 5 months, probably waited too long. I don't even know if you people will do anything. I probably will have to write to my Federal congress people or senators and they write to you, and then maybe, maybe you will do something. You should fine this station \$10,000 for every month five months that cc have been off, \$50,000. But I know you don't care. You can hear ok, you won't care any. Probably won't do anything.

Several years ago at the Super Bowl this was CBS, someone pulled off Janet Jackson's shirt exposed her nipple. What about "Roots" many years ago, ABC, 1977. I watched all of "Roots." The first two programs in family viewing time on Sunday and Monday, women were bare breasted. FCC didn't do anything. But it was a democratic President, Carter then. Republican now. I taped the Super Bowl. But I don't watch that rock and roll stuff, but it was on the tape. You fined those stations. I don't think they did anything wrong. Here this station is flagrantly violating Fed. and state laws, FCC, ADA laws, and no one cares. So it's up to you. I'll wait two weeks and then write to my Fed. Senator about it. I have the right to have CC on this local station which affiliate of ABC. Thank you .

Sincerely Neal Dan



Federal Communications Commission
Washington, D.C. 20554

January 31, 2006

WPTA-TV Channel 21 (ABC)
3401 Butler Rd.
Fort Wayne, IN 46808

Mailing Address
P.O. Box 2121
Fort Wayne, IN 46801

Attention: Chris Fedele, President & General Manager

Re: Notice of Informal Complaint (NOIC) -- Disabilities-Related
FCC File No. 06-N96835, Neal Hausmann

Dear Mr. Fedele:

The Federal Communications Commission (FCC) has received a complaint about lack of closed captioning from Neal Hausmann of Ossian, Indiana. Mr. Hausmann's complaint was forwarded to the FCC from the Office of Senator Lugar (IN). Specifically, the consumer alleges:

Lack of Closed Captioning (including Lack of Pass Through)

On Channel 21, WPTA-TV (ABC), for the period August 15, 2005 through December 23, 2005, and continuing. In particular:

- a. Regularly scheduled programming, such as "Nightline;"
- b. National network movies;
- c. Evening national news;
- d. Sunday December 18, 2005, "The Sound of Music;"
- e. Tuesday December 20, 2005, "Heaven, by Barbara Walters."

The consumer states he has videotapes for Channel 21 programming that show there is no closed captioning on this TV channel, adding that "every night they screw up the captions." He states this occurs during the period from 8 p.m. to 11 p.m. daily: "Usually when the program **first** starts the captions will be on till the **first** commercial, and then they turn them off, then maybe 30 mins later they suddenly remember to turn them back on." He states he receives closed captioning on other TV channels.

The consumer asserts, in his December 23, 2005 complaint email, that he "wrote to the director or manager of channel 21 in Sept. or Oct about this" and that "he did not respond to my letter."

Remedy Requested

Pass through and provision of closed captioning in compliance with FCC requirements.

The enclosed complaint has been filed with the Commission pursuant to Section 305 of the Act, 47 U.S.c. §305, and Sections 76.606 and 79.1 *et al.* of the Commission's Rules, 47 C.F.R. §§ 76.606, 79.1(g) and the authority delegated in section 0.141 of the Commission's rules, 47 C.F.R. §0.141 *et al.*

Upon receipt of this Notice, your company should acknowledge receipt of this Notice and of the enclosed complaint to the complainant using the contact information provided below. We are forwarding a copy of the complaint record 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 the complaint and summarize the actions taken by your company to satisfy the complaint.

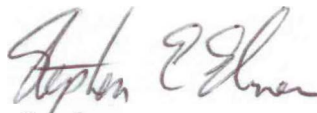
Your company's response to the complaint must be filed with the Commission in writing within THIRTY DAYS of the date of this notice. The original of your response should be sent to the Consumer & Governmental Affairs Bureau, Consumer Inquiries & Complaints Division, 445 12th Street S.W., Washington, D.C. 20554. Due to heightened security measures undertaken in Washington, D.C., and at this agency, you should send an electronic copy of this letter also to Jenifer. impson@fcc.gov. Your company is further directed to send a copy of its response to the complainant at the same time the response is forwarded to the Commission. Your company is directed to retain all records that may be relevant to the complaint until final Commission disposition of the complaint.

File number
FCC o. 06-N96835

Complainant
Neal Hausman
408 Countryside Drive
P.O. Box 615
Fort Wayne, IN 46777
Email nealdan@yahoo.com

Resolution of the allegation is expected.

Sincerely,



Stephen E. Ebner
Acting Chief Complaints & Inquiries Division
Consumer & Governmental Affairs Bureau

Enclosure

February 27, 2006

US Postal Certification #: 70020460000228923551

Mr. Neal Hausmann
408 Countryside Drive
P. O. Box 615
Fort Wayne, IN 46777

RE: FCC File #: 06-N96835

Dear Mr. Hausmann:

We recently received a letter from the Federal Communications Commission ("FCC") regarding an infonnal complaint you filed with respect to closed captioning on WPTA-TV, Channel 21 ("WPTA"). Specifically, your complaint alleges that you have been unable to receive closed captioning on WPTA from 8 p.m. to 11 p.m. daily for the period August 15, 2005 through December 23, 2005, and continuing. We understand from your complaint that you have videotapes showing certain of the WPTA programming without closed captioning information.

We have reviewed our library of recorded videotapes of the programming specifically mentioned in your complaint and have found the closed captioning information to be displayed properly in such programming. We are eager work with you to resolve the problems described in your complaint. In this regard, we would like to discuss with you how you view the Fort Wayne television stations, e.g. "over the air," Comcast Cable. In addition, we would like to offer technical support from our engineering staff to resolve any and all issues relating to your receipt of closed captioning on WPTA. At your request, we are happy to visit your residence or otherwise assist as appropriate.

We look forward to hearing from you at your earliest convenience.

Sincerely,

Bret Angel
Engineering Manager Fort Wayne Operations
WPTA/WISE/WB-37/Weather Plus
Granite Broadcasting Corporation
3401 Butler Road
Fort Wayne, IN. 46808
Phone: (260) 483-0584 Ext.383
Fax: (260) 482-2460

250 Park Avenue, New York, NY 10177
Tel: (212) 986-1116 • Fax: (212) 986-0604 • www.WolfBlock.com

Swart A. Shorestein
Direct Dial: (212) 883-4923
Direct Fax: (212) 672-1123
E-mail: sshorestein@wolfblock.com

March 2, 2006

Jennifer Simpson, Esq.
Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries & Complaints Division
445 12th Street, S.W.
Washington, D.C. 20554

Re: FCC File No. 06-N96835
Notice of Informal Complaint (NaIC) - Disabilities Related - Mr. Neal Hausmann

Dear Ms. Simpson:

This letter, submitted on behalf of Malara Broadcast Group of Fort Wayne Licensee, LLC, licensee of commercial station WPTA(TV), Fort Wayne, Indiana ("WPTA"), responds to the above-referenced notice of informal complaint ("NOIC"), dated January 31, 2006. The Notice requires WPTA to respond to certain closed-captioning allegations noted in the complaint of Mr. Neal Hausmann ("Complaint"), and to summarize actions taken by WPTA to satisfy the Complaint. As required by the NaIC, WPTA contacted Mr. Hausmann by electronic and certified mail on February 27, 2006 to acknowledge receipt of the NaIC and the Complaint.

I. Summary of Allegations

In the Complaint, Mr. Hausmann asserts that closed captioning was "turned off" in certain national or network shows that aired on WPTA from 8 p.m. to 11 p.m. daily. Specifically, Mr. Hausmann alleges that closed captioning was available when the program first starts until the first commercial, at which time it is turned off until about thirty minutes after the programming returns. Mr. Hausmann claims that these closed captioning problems have been ongoing since mid-August 2005. In addition, Mr. Hausmann states that he contacted WPTA in September or October by letter but did not receive a response to his letter.

II. Responses and Efforts to Resolve

WPTA takes its closed captioning obligations very seriously and also takes pride in its responsiveness to viewers. As further set forth below, WPTA does not believe that its closed captioning was "turned off" during the programs and times referenced by Mr. Hausmann. WPTA

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Wolf, Block, Schorr and Solis-Cohen LLP

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acknowledges that Mr. Hausmann's letter was received but, due to an inadvertent, administrative oversight, this letter was not brought to the attention of the WPTA manager responsible for compliance with FCC rules until after the Complaint was received. As discussed further herein, WPTA has instituted procedures to prevent a similar occurrence in the future.

A. "Tuned off" closed captioning.

Mr. Hausmann alleges that closed captioning in WPTA programming was turned off from 8 p.m. to 11 p.m. daily beginning in approximately mid-August 2005. Specifically, Mr. Hausmann states that he did not receive closed captioning on *The Sound of Music*; which aired on December 18, 2005, and *Heaven, by Barbara Walters*, which aired on December 20, 2005. Mr. Hausmann does not provide specific information regarding other programming with which he has had closed captioning problems but rather refers generally to regularly scheduled national or network programming broadcast on WPTA, such as "nightline," network movies, and national news.

Response. To WPTA's knowledge, its closed captioning was not turned off as alleged by Mr. Hausmann. As indicated above, Mr. Hausmann did not provide specific details regarding all programming with which he had experienced closed captioning problems. However, upon receiving the Complaint, WPTA reviewed tapes of the two specific programs referenced by Mr. Hausmann (i.e., *The Sound of Music* and *Heaven, by Barbara Walters* broadcast on December 18 and 20, 2005, respectively) as well as network programming broadcast during the time periods referenced by Mr. Hausmann (including "nightline," network movies, and national news) to determine whether the closed captioning was turned off in these programs. In each case, WPTA found all closed captioning information to be displayed properly in all the programs reviewed. Moreover, WPTA did not receive a single complaint from any other viewer regarding closed captioning in its programming during this period thus confirming WPTA's belief that all programming broadcast on WPTA carried the closed captioning. Thus, based on information presently available to WPTA, any problems experienced by Mr. Hausmann in receipt of the closed captioning on WPTA's network programming appear unrelated to WPTA.

Efforts to Resolve. WPTA attempted to find a telephone number in order to contact Mr. Hausmann directly to learn more about his concerns and to attempt to assist him in identifying the source of his reception problem and correcting it. Because WPTA could not find a telephone number for Mr. Hausmann and did not believe it appropriate to go to his house without a prearranged appointment, on February 27, 2006, WPTA contacted Mr. Hausmann by electronic and certified mail regarding the Complaint. Specifically, WPTA offered technical support from the station's engineering staff to assist in resolving any and all issues relating to Mr. Hausmann's receipt of closed captioning on WPTA. WPTA has not yet received a reply from Mr. Hausmann. If Mr. Hausmann agrees to accept assistance from WPTA, WPTA intends to work with Mr. Hausmann to ascertain and resolve the cause of his closed captioning problems.

Jennifer Simpson, Esq.

March 2 2006

Page 3

WPTA has also been in contact with Comcast Cable ("Comcast") regarding its carriage of WPTA programming. Comcast told Fort Wayne that it is not aware of any compliance issues with respect to retransmission of the WPTA programming referenced in the Complaint. WPTA will continue to work with Comcast as necessary to help identify the cause of Mr. Hausmann's closed captioning problems.

B. Station's unresponsiveness to Mr. Hausmann's letter.

Mr. Hausmann alleges that he contacted the "director or manager" of WPTA by letter in September or October 2005 and that he received no response to this letter.

Response. WPTA received Mr. Hausmann's letter regarding closed captioning and promptly placed the letter in the station's public inspection file in accordance with the FCC's rules. Due to an inadvertent, administrative oversight, however, the letter was not brought to the attention of the WPTA manager responsible for compliance with FCC rules until after WPTA received the Complaint. WPTA has implemented procedures to prevent a similar occurrence in the future. Specifically, WPTA has instructed its personnel that any communications received from the public must be reviewed by Mr. Douglas Barrow, the station manager of WPTA.

For all of the reasons set forth herein, WPTA respectfully requests that the Division deem this matter resolved and dismiss or deny the Complaint.

Very truly yours,



Stuart A. Shorenstein, Esq.

cc: Jennifer Simpson (via email)
Michael Hausmann (via overnight courier)

Wendle Hill
10926 ABOITE CENTER ROAD
FORT WAYNE, IN 46814

2/19/2008

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

FORMAL COMPLAINT

This is a formal complaint against a Broadcast Licensee for willful violation of Section 1464 of Title 18, United States Code. There was broadcast material that was in violation of law because of obscene, indecent, or profane programming.

The complaint concerns the broadcast material on:

NETWORK: ABC and Affiliate Stations

STATION CALL LETTERS: WPTA
FACILITY ID: 73905

PROGRAM TITLE: "Good Morning America" which was broadcast on:
BROADCAST DATE: January 15, 2008
BROADCAST TIME: 8:20 AM EST

Complainant also believes that such broadcast material is patently offensive:

- (a.) The material describes or depicts sexual or excretory organs or activities
- (b) It is patently offensive as measured by contemporary community standards for the broadcast medium and thus apparently indecent.
- (c) Especially offensive because it was broadcast at an hour when millions of children were watching between 6 a.m. and 10 p.m.

Documentation of the material on which my COMPLAINT is based on the information provided below. A video copy of the incident is available from American Family Association, PO Drawer 2440, Tupelo, MS 38803, phone: (662) 844-5036.

Documentation -----

On January 15, 2008, ABC broadcast "Good Morning America." During the course of the program, actress Diane Keaton uttered the word "fucking."

Transcript of interview with Diane Sawyer:

Diane Keaton: "Those lips, I love them. I would like to have lips like that. Then I wouldn't have worked on my f---ing personality. Excuse me, my personality. If I had lips like yours; I'd be better off. My life would be better. I would be married. I have these thin lips."

Sawyer: "My mother is going to work on your personality with soap in your mouth."

End Documentation -----

Section 1464 of Title 18, United States Code, prohibits the broadcast of obscene, indecent, or profane programming. The FCC rules implementing that statute, a subsequent statute establishing a "safe harbor" during certain hours, and the Act prohibit radio and television stations from broadcasting obscene material at any time and indecent material between 6 a.m. and 10 p.m. The indecent material was broadcast within the 6 a.m. to 10 p.m. time frame relevant to an indecency determination under section 73.3999 of the Commission's rules.

For the reasons above stated, Complainant urges the FCC to exercise its responsibility to enforce the existing law against indecency on broadcast TV between the hours of 6 a.m. and 10 p.m. (Title 18, U.S. Code, Section 1464) by levying severe sanctions against the broadcasters of this program.

Complainant requests that since the broadcast television licensee willfully violated the law that it be liable to the United States for a forfeiture penalty. The legislative history to Section 312(f) (1) clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act, and the Commission has so interpreted the term in the Section 503(b) context.

The Commission has already defined the "F-Word" as profanity in the Notices of Apparent Liability and Memorandum and Order that was adopted on February 21, 2006. In the Golden Globe Awards Order, the Commission concluded that the "F-Word" constituted "profane language" within the meaning of 18 U.S.C. S 1464 because, in context, it involved vulgar and coarse language "so grossly offensive to members of the public who actually hear it as to amount to a nuisance."

The fact that Broadcast Licensee may not have originated the programming in question is irrelevant to whether there is an indecency violation. See Review of the Commission's Regulations Governing Programming Practices of Broadcast Television Networks and Affiliates, Notice of Proposed Rulemaking, 10 FCC Rcd 11951,11961, P 20 (1995)

Complainant requests the maximum monetary forfeiture statutory penalty amount against the Licensee for broadcasting indecent material in apparent violation of 18 U.S.C. S: 1464 and Section 73.3999 of the Commission's rules.

Complainant requests the Licensee to air future live entertainment programming with a five-minute delay to avoid future violations of Section 1464 of Title 18, United States Code.

Complainant certifies that, to the best of my knowledge and belief, all the information on and attached to this affidavit is true, correct, and complete and made in good faith.

Complainant also certifies a true and correct copy of the foregoing document is being served this day on the licensee of record in the manner specified, via US regular mail, postage prepaid.

Sincerely,

Wendle Hill
10926 ABOITE CENTER ROAD
FORT WAYNE, IN 46814

Cc:
MALARA BROADCAST GROUP OF FORT WAYNE LICENSEE LLC
9257 BAILEY LANE
FAIRFAX, VA 22031- 1903

250 Park Avenue, New York, NY 10177

Tel: (212) 986-1116 • Fax: (212) 986-0604 • www.WolfBlock.com

Stuart A. Shorestein
Direct Dial: (212) 883-4923
Direct Fax: (212) 672-1123
E-mail: sshorestein@wolfblock.com

February 28, 2008

Toby Malara, Esq.
Government Affairs Counsel
American Staffing Association
277 S. Washington Street, Suite 200
Alexandria, VA 22314-3675

Re: WPTA-TV-
Good Morning America Indecency Complaint

Dear Toby:

There is nothing WPTA needs to do about the complaint at this point other than for WPTA-TV to place a copy in its public file. Also, if you still have it, please keep and send me a copy of the envelope in which you received the complaint. I would like to see if it bears a Miami postmark. It appears that viewers who went on the American Family Association ("AFA") website were prompted to complete information for a boilerplate complaint against their local ABC affiliate for broadcasting the Diane Keaton interview. It also appears that once the complaint was completed on the AFA website, that the AFA filed the complaint with the FCC and that the complainant had no further involvement in the process. You will note that the complainant does not even state that she watched the Diane Keaton interview. According to ABC, the interview was edited and the F-word was deleted for Good Morning broadcasts in time zones other than the east coast. As the facts on what was actually broadcast become clearer, this might provide a solid defense for WPTA-TV. Do you still have a copy of the tape of the program?

The United States Federal Court of Appeals for the Second Circuit overturned the FCC's decision that had held that a fleeting expletive on a live broadcast was indecent. As a result, under current law, a fleeting expletive, such as that uttered by Diane Keaton, on Good Morning America is not necessarily indecent. The Second Circuit decision has been appealed to the Supreme Court and the Supreme Court has not yet decided whether to review the Second Circuit's decision. There also is legislation pending in Congress that would treat the utterance of a fleeting expletive as indecent under federal law. Absent Supreme Court reversal of the Second Circuit decision or adoption of legislation rendered a fleeting expletive indecent, we do not believe the FCC is likely to initiate an investigation at this time against WPTA-TV and other

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Toby Malara, Esq.
February 28, 2008
Page 2

ABC affiliates for Diane Keaton's utterance of this fleeting expletive. We will wait to see whether the FCC initiates an investigation and sends WPTA-TV a letter inquiry regarding the matter. Until then, no further action by WPTA-TV is necessary at this time.

Please do not hesitate to give us a call with any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stuart Shorestein".

Stuart A. Shorestein

cc: Doug Barrow

- **ABC Television Affiliates Association**

MEMORANDUM

March 4, 2008

To: ABC Affiliates

From: Ray Cole, Chairman

Re: Status of (1) *NYPD Blue* Litigation and ABC Indemnification and
(2) *Good Morning America* Complaints

I.

NYPD Blue Litigation

As many of you are aware, the FCC recently imposed a fine on 45 Central and Mountain Time Zone ABC stations (two of which are Network O&Os) of more than \$1.2 million as a result of a February 25, 2003, broadcast of *NYPD Blue*.

To avoid needless duplication of effort and to coordinate a unified legal strategy, your Board of Governors asked our regular counsel, the firm of Brooks, Pierce, McLendon, Hummey & Leonard, to handle the defense of the non-network stations before the FCC and, if necessary, in the courts. Each of the affected stations supported this effort. An impressive legal brief was prepared and filed in short order with the FCC by Brooks Pierce on behalf of the non-network owned stations, and the firm is now working on a court appeal.

Last week, in order to make the FCC's action appealable in court and with the consent of the affected stations, ABC promptly paid the fine assessed by the FCC against each station and has informed the Association that it also will pay for the stations' legal defense by the Association's counsel, both before the FCC and in the courts. ABC, understandably though, has agreed to pay for only one set of lawyers for the affected non-network stations. So, to the extent the affected stations have or will confer with or incur legal fees and expenses in the case from their own regular legal counsel, those fees and expenses are not subject to reimbursement by ABC.

We are pleased with and appreciative of the level of cooperation and support by ABC and its willingness to indemnify each ABC station for the FCC fine and pay for the collective legal defense by the Association. As you are perhaps aware, ABC last week appealed the FCC's decision in federal court on behalf of its two owned and operated

stations and is coordinating with the Association's lawyers as they prepare an appeal for the non-owned stations.

II.

Good Morning America Complaint

In addition, many stations this week began receiving copies of fonn complaints that apparently were filed with the FCC in connection with Diane Keaton's use of the "F-word" on *Good Morning America* on January 15, 2008. As John Rouse noted in an email to affiliates, ABC deleted the expletive from all feeds of *GMA* other than the live Eastern time zone feed. All of the complaints seem to be identical and to have been mailed from Miami. The fact that stations in the Central, Mountain, and Pacific Time Zones are receiving the complaints underscores the problem with the Commission's complaint process.

In anticipation of possible future litigation in this matter, it would be helpful if each station that received a complaint could fax a copy of it, including the postmark, to Brooks Pierce, which is maintaining a file of these complaints. (The fax number is 919-839-0304.) The procedural defects in many of these complaints could ultimately serve to insulate your station from any liability should the FCC take action.

At this point, it appears that the FCC has taken no action (for example, it has not asked ABC for a tape of the program), and it is possible the FCC may not take any action at this time based on the decision in the *Fox Broadcasting* case (the Nicole Ritchie/Cher case) which, we believe, prevents the FCC from enforcing its "fleeting expletives" policy in circumstances that would include this broadcast. If any station does receive a letter of inquiry from the FCC, however, please advise Wade Hargrove or Mark Prak at Brooks Pierce immediately.

You will wish to confer with your station's FCC counsel, of course, but it does not appear that any FCC response from ABC stations is necessary at this time unless the station received a letter of inquiry or other direct communication from the FCC itself soliciting a response.

* * *

Please let me know if you have any questions about the *NYPD Blue* case or the scope of ABC's agreement for reimbursement of legal expenses or about *Good Morning America*.