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## Reminder – Closed Captioning During Emergencies

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**To: Television Clients**  
**From: Peter Gutmann**

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The Commission's Enforcement Bureau has just announced a Consent Decree that provides both a warning and some guidance for closed captioning obligations during emergencies.

A consumer complaint had charged a Washington, DC network affiliate with failing to make information on a thunderstorm/tornado watch accessible to persons with hearing disabilities. After investigating, the Commission found that the station had violated its requirement that emergency information presented aurally also be provided in closed captioning. Rather than pay a proposed \$16,000 fine, the licensee agreed to make a "voluntary contribution" to the US Treasury of \$12,000, and to implement a compliance plan for two years. In exchange (and assuming the compliance plan is followed), the Commission is to drop the matter and not pursue any further action against the licensee relating to the incident.

The moral of the story, of course, is that the closed captioning requirements (detailed in §§ 79.1 and 79.2 of the FCC's rules) are in full force and need to be strictly observed. In sum, audio emergency information must be closed captioned or otherwise presented visually, and video emergency information must be presented aurally if during a newscast or an interrupting bulletin or accompanied by an aural tone in other

programming. Beyond that, the specific provisions of the Consent Decree provide guidance for guarding against violations and contain some practical suggestions for internal controls and procedures:

- (a) The Station either will commence captioning or contact its captioning service promptly before or contemporaneously with any broadcast coverage of a pending or imminent emergency that endangers the Station's principal coverage area and will make its best reasonable efforts to ensure that coverage of the emergency is captioned as soon as possible;
- (b) The Station will maintain visible postings on television sets in the Station's newsroom that remind employees to contact the Station's captioning service during emergency events and include the phone number for that service;
- (c) The Station will maintain a labeled speed-dial button on telephones in the Station's newsroom with a direct connection to the Station's captioning service;
- (d) As circumstances warrant, the Station will provide special weather text graphics to hearing impaired viewers with shelter-at-home tips during

coverage of tornado, severe thunderstorm, flash flooding or other weather emergencies;

(e) The Station will adopt an emergency visual presentation policy requiring that all emergency information broadcast outside a regularly scheduled newscast be accompanied by captioning if emergency information is conveyed via the Station's audio. When circumstances warrant, such information will also include a clear text graphic or text crawl (e.g., weather-related emergencies, security evacuation details). Emergency information will include any information relating to an imminent or ongoing emergency affecting the Washington, D.C. television market and that is intended to protect life, health, or property;

(f) The Station will distribute, at least every six months, the Station's emergency visual presentation policy to all employees; and

(g) The Station will incorporate the Station's emergency visual presentation policy into the Station's annual news employee training session.

As with most of its operating requirements, the Commission does not prescribe how licensees are to assure compliance, but holds licensees fully liable for lapses. Thus, while the details of the Consent Decree are not mandatory, they may suggest vulnerability or remedies in your own operations.

If you have any questions concerning your captioning obligations, please be sure to let us know.

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