

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
) CG Docket No. 05-231
Responsibilities for Meeting the Closed Captioning Requirements)
)
Notice of Proposed Rulemaking)

COMMENTS OF THE HEARING ACCESS PROGRAM

April 8, 2014

INTRODUCTION:

My comments are based on having a 19-year old daughter who has a hearing loss and being the chair of the Hearing Access Program. The Hearing Access Program assists organizations such as museums, theaters, amusement parks, cruise ships, networks and corporations achieve effective access for people with hearing loss. In the role of chair of the Hearing Access Program, I worked with NBC's chairman's office to develop captioning standards for their contracts and the the Association of National Advertisers who released a White Paper in December 2010 recommending that all commercials have captions. This White Paper is attached.

DISCUSSION:

In 2005, I submitted comments on behalf of the Hearing Access Program. Since my previous submission in 2005, I have worked diligently to resolve captioning issues on my own and through the Federal Communications Commission (FCC) for the show, Gossip Girls. The Hearing Access Program commends The Chairman for developing captioning standards. Without them, it was **impossible** to resolve the issues. The networks and production companies hide behind the lack of standards so the standards need specificity and clarity. The FCC also cites the lack of standards as a reason why they cannot resolve the issue. There is no point to filing a complaint for captioning issues with the FCC that is not based on transmission issues.

On August 19, 2008, my then 14-year old daughter, Arielle filed the following complaint with the FCC.

From: [REDACTED]
Received: 9/15/2008 8:55:34 AM

Subject: FCC-Gossip Girls

Dear FCC Commissioner:

My name is Arielle Schacter. I am fourteen years and my favorite show is Gossip Girl. The only problem I have with this show is its captioning. I have a hearing-loss and I feel insulted by the many problems of the captioning.

The problems with the captioning are: 1) It is covering the actor's heads. 2) It is spelled incorrectly. 3) It treats people with a hearing loss as if they are stupid.

Problem Number One: Sometimes the captioning covers the actor's heads making the captioning annoying because you cannot read the facial expressions and lips of the actors. The reason why people love watching a show as opposed to reading a book, is because the enacting of the roles allow the audience to feel like the character. The expressions on the face show whether the character was pained or just sad. Also, the covering of the heads is just annoying to watch. Also people with a hearing loss cannot read the lips of the actor. People with a hearing loss try to use multiple routes of achieving the dialogue. One way is to use closed captioning, and another way is lip-reading. If I cannot read the actor's lips, I will have trouble understanding the actor and have trouble understanding the plot context.

Problem Number Two: The poor spelling and punctuation can be difficult to understand. At times, the spelling is so poor that the captioning becomes incomprehensible. Sometimes, instead of words, the captioning appears as symbols, letters and numbers squashed together in a meaningless mishmash. At these moments I have to lean to my mother to ask her to explain the previous portion of the show, and then by asking her I miss the next piece of dialogue. My mother then is annoyed that she has to explain causing a disruption to our enjoyment of the show. What should a peaceful mother-daughter hour watching the show grows into a dispute over my talking during the show. Then the next day at school, I cannot join the conversation when everybody is talking about the previous night's new episode.

Problem Number Three: The lack of proper captioning is insulting. While many people are trying to advocate for better education, the poor captioning pushes away their attempts. It allows the audience to believe that proper English is not important. How should people for whom English is their second language learn English if they only have sloppy English? Should the media not support efforts to maintain proper English? The poor English, also, insults the communities with a hearing loss. It makes a presumption that those with a hearing loss cannot spell and are dumb. This is not true! People who have a hearing loss are not dumb and they do not appreciate being dehumanized in this way.

Captioning with poor spelling and placement must not be permitted and be fixed as soon as possible. Please correct these issues for the show, so I can watch my favorite show.

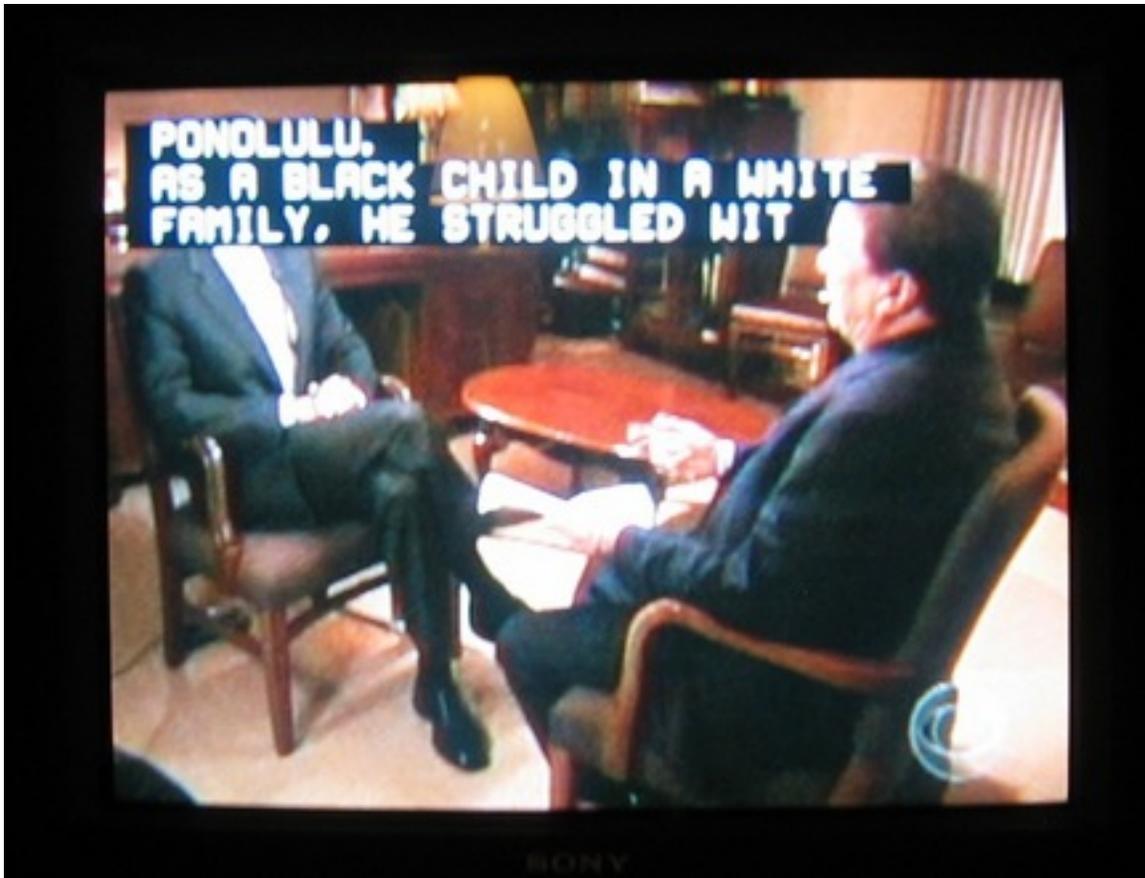
Yours sincerely,

Arielle [REDACTED]
[REDACTED]

Despite Arielle filing a complaint with the FCC, I attempted to simultaneously, resolve the issue on my own by

- Meeting with FCC Commissioners and staff in DC and sending numerous e-mails to the FCC.
- Speaking with staff at WPIX-CW11 where the show airs in New York, Time Warner Cable, Fleishman and Harding (Counsel for Time Warner Cable), Counsel from the Tribune and the Chief Engineer for WPIX
- Contacting Congressional members and the committee that has oversight over the FCC.
- E-mailing Barry Meyer, Chairman and CEO for Warner Brothers and his Assistant, Pam Nakamura.
- E-mailing and speaking to I believe, people including but not limited to Jeremy Sunderland, John Matta and Paul McGuire at CW11.

I learned from this exhausting exercise that the actor's credits are run one at a time at the beginning of the show rather than as in the past, all at once at the end of the show. This process can last up to 6 minutes. Actor's credits are not permitted by various guilds to be obscured or they are deemed not to run. The credits shift the captions that typically run on the lower third of the screen to the top of the screen across the faces of the actors. It is my understanding that there are no requirements that prevent what is essentially, the decapitation of heads. Therefore, the captions can obscure the heads for up to about 6 minutes of the show or roughly, 1/3 of the show. This is a photo of the issue from another show.



Warner Brothers and/or CW11 told me that they would not contact the various guilds to see if all the credits could scroll all together at the beginning or at the end of the show. The FCC cannot resolve this issue since credits are outside the FCC's jurisdiction and there are no captioning standards.

Captions should not count as meeting the FCC's requirements for 100% of captioning on all new, non-exempt programs if the captions are unintelligible, misspelled, not comprehensible or block faces /action so that it's not possible to comprehend and/or enjoy the program.

My daughter and I have done everything humanly possible short of renegotiating the guild's contracts. Captioning standards that have specificity about credits not blocking captions are necessary. There is no market force to affect change if the FCC does not regulate captioning standards. In addition, the lack of standards essentially, permits not just the production companies and the guilds but the FCC to hide behind the fact there are no standards. This is circular reasoning.

CONCLUSION

The FCC should develop captioning standards. The standards I recommend were developed based on my work with the Association of National Advertisers

(Attached.) for commercials and are included in the attached White Paper. Commercials should not have better standards than television programming especially, pre-recorded television programming which is no different than commercials. The development of these standards demonstrates that they are readily and easily achievable by captioning companies since the ANA's production staff vetted them.

To not develop captioning standards places people who are deaf or hard of hearing at the mercy of the industry and apparently, actor's egos. As I stated in my previous comments, just as in divorce proceedings, the judge is required to determine what is in the best interest of the child and not what benefits or is convenient for the parents, so too should the FCC determine what is in the best interest of the community who is deaf and hard of hearing and not what is easiest or least costly for the industry. The goal of captioning is to be the functional equivalent of sound and should be nothing less.

Respectfully Submitted,

Janice L. Schacter, Chair
Hearing Access Program