

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	File No. EB-04-TC-104
Fox Television Stations, Inc)	Facility No. 22207
Licensee of WTTG-TV)	NAL/Acct. No. 200532170011
Washington D.C.)	FRN: 00012916607
)	

ORDER

Adopted: November 17, 2006

Released: November 17, 2006

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and Fox Television Stations, Inc., (“Fox”). The Consent Decree terminates an investigation initiated by the Enforcement Bureau regarding whether Fox violated section 713 of the Communications Act of 1934, as amended (the “Act”),¹ and section 79.2(b)(1)(i) of the Commission’s rules² by failing to make accessible to persons with hearing disabilities emergency information that it provided aurally in its programming for WTTG-TV during a thunderstorm/tornado watch in Washington, D.C. Metropolitan area on May 25, 2004.

2. The Enforcement Bureau and Fox have negotiated the terms of a Consent Decree that resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Fox possess the basic qualifications, including character qualifications, to remain a Commission licensee.

4. Accordingly, **IT IS ORDERED**, pursuant to Section 4(i) of the Communications Act of 1934, as amended,³ and the authority delegated by sections 0.111 and 0.311 of the Commission’s rules,⁴ that the attached Consent Decree **IS ADOPTED**.

¹ 47 U.S.C. § 613.

² 47 C.F.R. § 79.2(b)(1)(i).

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned investigation into the matters described herein is terminated.

6. **IT IS FURTHER ORDERED** that copies of this order shall be sent by regular first class mail and certified mail - return receipt requested to Molly Pauker, Vice President Corporate and Legal Affairs, Fox Television, Inc., 5151 Wisconsin Avenue, Washington, D.C. 20016.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

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CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (the “FCC” or “Commission”) and Fox Television Stations, Inc., (“Fox”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation (the “Investigation”) regarding whether Fox complied with section 713 of the Communications Act of 1934, as amended (the “Act”), and section 79.2(b)(1)(i) of the Commission’s rules,¹ as it relates to the duty to make accessible to persons with hearing disabilities emergency information that it provided aurally in its programming for WTTG-TV during a thunderstorm/tornado watch in the Washington, D.C. Metropolitan area on May 25, 2004.

II. BACKGROUND

2. On May 25, 2004, there was a severe thunderstorm/tornado watch in the Washington, D.C. Metropolitan area. The Commission received a consumer complaint against WTTG-TV alleging that the station failed to make information on the thunderstorm/tornado watch accessible to persons with hearing disabilities. The complaint alleged that this failure resulted in confusion regarding the severity and location of the emergency including what viewers should do to remain safe. The Bureau subsequently launched an investigation into Fox’s broadcasts carried on WTTG-TV on that date. After investigation, the Bureau issued a Notice of Apparent Liability (“NAL”) finding that Fox committed two apparent violations of section 713 of the Act and the Commission’s emergency visual access rules.² The NAL proposed a forfeiture of \$16,000.

¹47 U.S.C. § 713; 47 C.F.R. § 79.2(b)(i).

²*Fox Television Stations, Inc.*, Notice of Apparent Liability, 20 FCC Rcd 9847 (EB released May 25, 2005)

III. DEFINITIONS

3. For the Purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended;
 - (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
 - (c) “Complaint” means the Complaint filed by Cheryl Heppner, Executive Director, Northern Virginia Resource Center for Deaf and Hard of Hearing Persons on May 28, 2004;
 - (d) “Effective Date” means the date on which the Bureau releases the Adopting Order;
 - (e) The “FCC” or the “Commission” means the Federal Communications Commission;
 - (f) “Investigation” means the investigation of the Station and the allegations contained in the Complaint;
 - (g) “Fox” or the “Company” means Fox Television Stations, Inc., and any affiliate, d/b/a, predecessor-in-interest, parent companies and any direct or indirect subsidiaries of such parent companies, or other affiliated companies or businesses, and their successors and assigns;
 - (h) “Order” or “Adopting Order” means an Order of the Bureau adopting the terms and conditions of this Consent Decree without change, addition, or modification, and formally terminating the above-captioned Investigation;
 - (i) “Parties” means Fox and the Bureau;
 - (j) “Rules” means the Commission’s regulations set forth in Title 47 of the Code of Federal Regulations; and
 - (k) “Station” or “WTTG” means Fox’s owned station assigned to Washington, D.C.

IV. AGREEMENT

4. Fox agrees that the Bureau has jurisdiction over it and the subject matter contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

5. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between them concerning the Investigation. In express reliance on the covenants and representations contained herein, and in order to avoid the potential expenditure of additional public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of this Investigation and in accordance with the terms of this Consent Decree, Fox agrees to the terms, conditions, and procedures contained herein.

6. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits

or a factual or legal finding regarding any compliance or noncompliance by Fox with the requirements of the Act and the Rules. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Fox does not admit or deny any non-compliance or violation of or any liability under the Act or Commission rules in connection with the matters that are the subject of this Consent Decree.

7. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in an Order.

8. The Parties agree that this Consent Decree shall become effective on the Effective Date and shall have the same force and effect as any other order of the Commission. Any violation of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

9. The Bureau agrees that it shall terminate the Investigation. The Bureau agrees that, in the absence of new material evidence, it shall not on its own motion or in response to third-party objection, initiate any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against Fox or the Station based in whole or in part on the Investigation or on any complaints alleging violations of section 79.2 relating to the coverage Fox provided of the thunderstorm/tornado watch on May 25, 2004. The Bureau further agrees that, in the absence of material new evidence, it will not use the facts developed in this Investigation prior to the Effective Date to initiate on its own motion, or recommend to the Commission, any proceeding, informal or formal, or take any action on its own motion against Fox with respect to its basic qualifications to be or remain a Commission licensee.

10. In consideration for the termination of the Investigation, the Station will implement within 30 days of the Effective Date and maintain the following Emergency Visual Presentation Policy, which will be overseen by the Station's News Director:

(a) Consistent with the Commission's rules, it shall be the policy of WTTG to close caption all emergency information broadcast outside a regularly scheduled newscast if such information is conveyed via the Station's audio. However, if captioning services are not immediately available or if caption services cannot be immediately secured, WTTG will make the critical details of the emergency information accessible by other visual means, such as crawls, scrolls, or handwriting on a blackboard, whiteboard, or other display and will continue to do so until captioning begins. Emergency information will include any information relating to an imminent or ongoing emergency, as described in Section 79.2 of the Commission's rules, affecting WTTG's viewers that is intended to protect life, health, or property;

(b) The Station will distribute, at least every six months, the Station's Emergency Visual Presentation Policy to all employees;

(c) The Station will incorporate the Station's Emergency Visual Presentation Policy into the Station's regular news employee training session;

(d) Pursuant to the Emergency Visual Presentation Policy, WTTG will promptly commence captioning, or contact its captioning service, before or contemporaneously with any broadcast coverage of a pending or imminent emergency that endangers the Station's viewers and will make its best reasonable efforts to ensure that coverage of the emergency is captioned as soon as possible. Consistent with Section 79.2 of the Commission's rules, during any time that captioning is not immediately available to caption the newscast or breaking news report, WTTG will make the critical details of the

emergency information accessible by other visual means, such as crawls, scrolls, or handwriting on a blackboard, whiteboard or other display;

(e) Pursuant to the Emergency Visual Presentation Policy, the Station will maintain a dedicated captioning computer that is remotely accessible by the News Desk that has direct internet access to all of its captioning service's captioners nationwide so that Master Control Operators and personnel at any News Desk computer can: (1) initiate emergency captioning by pressing one key, (2) order future captioning by accessing and clicking on an icon on the computer, (3) verify that captioning has come on line and (4) converse with captioners via internet;

(f) Pursuant to the Emergency Visual Presentation Policy, the Station will maintain visible postings on television monitors in the Station's newsroom that remind employees to promptly contact the Station's captioning service during emergency events, such postings will include the phone number for that service;

(g) Pursuant to the Emergency Visual Presentation Policy, as circumstances warrant, in addition to captioning, 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. This is in addition to providing emergency information in an accessible format while waiting for captioning to commence.

11. In consideration for the termination of the Investigation, and in accordance with the terms of this Consent Decree, Fox will make a voluntary contribution to the United States Treasury without further protest or recourse to a trial de novo in the amount of twelve thousand dollars (\$12,000) within thirty (30) calendar days after the Effective Date. Fox must make this payment by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Acct. No. and FRN referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 358340 Pittsburgh, Pennsylvania, 15251. Payment by overnight mail may be sent to Mellon Client Service, 500 Ross Street, Room 670, Pittsburgh, PA 15262-0001, Attn: FCC Module Supervisor. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6229. Please include your NAL/Acct. No. with your wire transfer.

12. Fox's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition or modification.

13. Fox waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the Bureau issues an Order adopting the Consent Decree without change, addition or modification.

14. If any Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Order, neither Fox nor the FCC shall contest the continuing validity of the Consent Decree or Order. Fox and the Commission further agree that they will waive any statutory right to a trial de novo with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and that they will consent to a judgment incorporating the terms of this Consent Decree.

15. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction,

this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

16. The Parties agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Fox does not consent), that provision will be superceded by such Commission rule or order.

17. By this Consent Decree, Fox does not waive or alter its right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information.

18. The Parties agree that the requirements of this Consent Decree shall expire twenty-four (24) months from the Effective Date.

19. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

For the Enforcement Bureau

For Fox Television Stations, Inc.

By: _____
Kris Anne Monteith
Chief

By: _____

Date

Date