

FEDERAL COMMUNICATIONS COMMISSION

September 24, 2013

Mignon L. Clyburn
Acting Chairwoman

The Honorable Mike Thompson
U.S. House of Representatives
231 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Thompson:

Thank you for your letter regarding Commercial Advertisement Loudness Mitigation Act. I appreciate your interest in this matter and am pleased to provide the enclosed letter on this issue from the Associate Bureau Chief of the FCC's Enforcement Bureau.

If you have any additional questions or need any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Mignon L. Clyburn". The signature is fluid and cursive, with the first name "Mignon" and last name "Clyburn" clearly legible.

Mignon L. Clyburn

Enclosure



Federal Communications Commission
Washington, D.C. 20554

September 24, 2013

EB-IHD-KR-DB
CN1300701

The Honorable Mike Thompson
U. S. House of Representatives
231 Cannon House Office Building
Washington, D. C. 20515

Dear Congressman Thompson:

Thank you for your letter regarding the Commission's work implementing the Commercial Advertisement Loudness Mitigation (CALM) Act. I appreciate your dedication to this issue, and I am pleased to respond to your letter.

The Commission timely implemented the CALM Act in 2011, and the resulting rules went into effect at the end of last year. Our work is not done, however, as we must also address consumer complaints and overall compliance with the rules to achieve the benefits Congress intended. The CALM Act itself recognizes that loudness is subjective and therefore relies on the Advanced Television Systems Committee (ATSC) recommended practice to address the problem. Consequently, the Commission established an enforcement mechanism that relies on complaints from the public, which are reviewed for patterns or trends that indicate noncompliance and warrant investigation and potential penalties. That review is underway.

As provided in the rules implementing the CALM Act, the Commission's Enforcement Bureau seeks to identify patterns or trends of complaints. When a pattern or trend of complaints is identified, then further Enforcement Bureau inquiry may be taken, including sending a Letter of Inquiry to the station or multichannel video programming distributor (MVPD) that is responsible for the complained-of commercials. The rules require the station or MVPD that receives such a letter to demonstrate that it is in compliance with the rules. The station or MVPD may demonstrate compliance either by showing that the complained-of commercial did comply with the ATSC A/85 recommended practice, or by conducting spot checks of the complained-of programming to ensure its compliance.

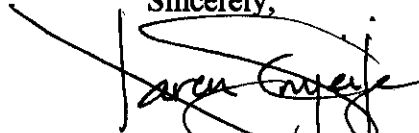
Identifying a pattern or trend requires complex and multi-dimensional analysis of the complaints. We are continually reviewing the complaints and analyzing them by MVPD, by station, by complained-of commercial, by geography, and by programmer/network, among other factors. The data provided by consumers, however, is often not sufficiently specific or consistent to facilitate reliable analysis. To improve the data, we have re-examined the complaint forms used for intake, and have identified improvements that should make it easier for consumers to provide the specific data we

for intake of CALM Act complaints and have identified improvements that should make it easier for consumers to provide more detailed and specific information. Implementing the improved form has been—and continues to be—delayed by lack of funding due to the Commission's reduced budget and the belt-tightening associated with sequestration.

When a pattern or trend of complaints is identified, the Enforcement Bureau typically sends a Letter of Inquiry to the broadcast station or MVPD that is responsible for the complained-of commercials. FCC rules require the station or MVPD that receives such a letter to demonstrate its compliance. The station or MVPD may demonstrate compliance either by showing that the complained-of commercial did comply with the ATSC A/85 recommended practice or by conducting spot checks of the complained-of programming to ensure its ongoing compliance. As with other potential enforcement activities, we refrain from disclosing publicly any information that could compromise ongoing investigations.

While it has only been a short time since the rules took effect, please be assured that we take seriously our responsibilities under the CALM Act. We will continue to provide information to the public regarding the issue and will work with the affected industries to ensure compliance.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Onyeije", is written over a horizontal line. The signature is fluid and cursive.

Karen E. Onyeije
Associate Bureau Chief
Enforcement Bureau