

This document is made available through the declassification efforts
and research of John Greenewald, Jr., creator of:

The Black Vault



The Black Vault is the largest online Freedom of Information Act (FOIA)
document clearinghouse in the world. The research efforts here are
responsible for the declassification of hundreds of thousands of pages
released by the U.S. Government & Military.

Discover the Truth at: <http://www.theblackvault.com>



Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

CGB

January 30, 2017

John Greenewald
The Black Vault



john@greenewald.com

FOIA No. 2017-243

Dear Mr. Greenewald:

This letter responds to your recent Freedom of Information Act (FOIA) request received by the Federal Communications Commission (FCC or Commission) and assigned to the Consumer & Governmental Affairs (CGB) and Enforcement Bureaus (EB). Your request seeks complaints regarding ABC's "Dick Clark's New Year's Rockin' Eve." Your request has been assigned FOIA Control No. 2017-243.

CGB conducted a search of the databases in which we maintain the records of informal complaints filed by, or on behalf of, consumers. Our search identified two (2) responsive documents. Enforcement did not identify any additional records. Copies of the responsive documents are enclosed.

Records responsive to your request were withheld or redacted under FOIA Exemption 6. Exemption 6 protects files containing personally identifiable information disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Balancing the public's right to disclosure against the individual's right to privacy, we have determined that release of this information would constitute a clearly unwarranted invasion of personal privacy. Therefore, all FCC employee names, complainants' names, addresses, and telephone numbers were redacted under Exemption 6.¹ The FCC receives many complaints and comments that do not involve violations of the Communications Act or any FCC rule or order. Thus, a complaint or comment does not necessarily indicate any wrongdoing by any individuals or entities named in the complaint or comment.

FOIA and FCC rules require the FCC to charge requesters for time spent searching for and reviewing responsive documents, and for copying them. Pursuant to section 0.466(a)(5)-(7) of the Commission's rules, you have been classified for fee purposes as

¹ 5 U.S.C. § 552 (b)(6); see *also* 47 CFR § 0.457(f).

category (2), “educational requesters, non-commercial scientific organizations, or representatives of the news media.”² As an “educational requester, non-commercial scientific organization, or representative of the news media,” the FCC assesses charges to recover the cost of reproducing the records requested, excluding the cost of reproducing the first 100 pages. The production in response to your request did not involve more than 100 pages of duplication. Therefore, you will not be charged any fees.

If you consider this to be a denial of your FOIA request, you may seek review by filing an application for review with the Office of General Counsel. An application for review must be received by the Commission within 90 calendar days of the date of this letter.³ You may file an application for review by mailing the application to Federal Communications Commission, Office of General Counsel, 445 12th St SW, Washington, DC 20554, or you may file your application for review electronically by e-mailing it to. Please caption the envelope (or subject line, if via e-mail) and the application itself as “Review of Freedom of Information Action” and the application should refer to FOIA No. 2017-243.

If you would like to discuss this response before filing an application for review to attempt to resolve your dispute without going through the appeals process, you may contact the Commission’s FOIA Public Liaison for assistance at:

FOIA Public Liaison
Federal Communications Commission, Office of the Managing Director,
Performance Evaluation and Records Management
445 12th St SW, Washington, DC 20554
202-418-0440
FOIA-Public-Liaison@fcc.gov

If you are unable to resolve your FOIA dispute through the Commission’s FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s Office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS

² 47 CFR § 0.466(a)(5)-(7).

³ 47 CFR §§ 0.461(j), 1.115; 47 CFR § 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission).

College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

Sincerely,



Nancy Stevenson
Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau

Attachments

#1375125 Dick Clark's Rockin'NYE

Submitted January 1, 2017, 2:33 PM
Received via Web Form
Requester (b) (6)

Status Solved
Type -
Priority -
Group CGB - Indecency your unsolved tickets
Assignee (b) (6)

Complaint Internal Status Not Served
Name of TV program Dick Clark's Rockin'NYE
TV Method Cable
TV Issues Indecency
First Name (b) (6)

Last Name (b) (6)
State Michigan
Zip Code 49621
Time of Issue 1:15 am
Date of Issue January 1, 2017

Phone (where you can be contacted) (b) (6)
TV channel 12
City Where Program was Viewed/Heard Bay Port

Network ABC
State Where Program was Viewed/Heard Michigan
Address 1 (b) (6)
City Cedar

Filing on Behalf of Someone
 No

(b) (6) Jan 1, 2:33 PM

On this ABC broadcast there was a blond woman dressed in white doing a rap song shouting out several times "Motherfucker.". I thought no matter what time of day that language was prohibited. This was not muted.

(b) (6) Jan 6, 11:42 AM

(b) (6)

Thank you for contacting the FCC to share your concerns about broadcast program material that you find offensive. The FCC licenses over-the-air radio and TV broadcast stations. It is against federal law for a licensed television or radio station to air obscene programming at any time, or to air indecent or profane material during the hours of 6 a.m. to 10 p.m. The FCC is charged with enforcing the law that governs the broadcast of such material.

The FCC is not permitted to censor or restrict the availability of non-broadcast programming shown over cable and satellite systems. Cable and Satellite Operators do not have the same restrictions on program content as regular television broadcast stations.

For the FCC to consider whether a licensee has violated these requirements of the law, a complaint must relate to particular programming, rather than express a general opinion. To proceed on a complaint, the FCC must have information that includes the station that aired the programming material, the date and time of day of the broadcast, a recording, transcript or description of the material broadcasted. Not all programming which consumers find inappropriate or offensive matches the FCC definitions of indecency, obscenity, and profanity.

Licensed Broadcasters are responsible for selecting the broadcast material that airs on their stations, including advertisements. The FCC expects broadcasters to be responsible to the community they serve and act with reasonable care to ensure that advertisements aired on their stations are not false or misleading.

If your complaint is regarding non-broadcast programming shown over a cable or satellite system, or concerning broadcasts from a FCC licensed TV or radio station, and you have not provided the necessary information, or the facts and information contained in the complaint did not suggest that a violation of the statute or FCC rules regarding indecency, obscenity, and profane material has occurred, we cannot proceed further with regard to your allegations. Accordingly, we must close your complaint.

Your views and concerns about program material are important to us. To assist you further, we are including

links to information that discusses the law with respect to indecent, profane and obscene broadcasts and our enforcement procedures.

We encourage you to convey your concerns, whether general or program-specific, directly to station management. This can be an effective method to influence a broadcast licensee's programming decisions.

<https://www.fcc.gov/consumers/guides/obscene-indecent-and-profane-broadcasts>

<https://consumercomplaints.fcc.gov/hc/en-us/articles/203700670-Cable-TV-and-Offensive-Programming-Quick-Facts>

<https://consumercomplaints.fcc.gov/hc/en-us/articles/203700610-Satellite-Programming-Quick-Facts>

Support Software by **Zendesk**


#1374895 Incorrectly captioned program

Submitted	Received via	Requester
January 1, 2017, 1:12 AM	Web Form	(b) (6)

Status	Type	Priority	Group	Assignee
Solved	-	-	DRO - Main Form	(b) (6)

Complaint Internal Status	Name of TV program	TV Method	Accessibility Issues		
Carrier Status Closed	Dick Clark's new years rocking eve	Fiber	Closed Captioning on TV		
First Name	Last Name	State	Zip Code	Time of Issue	Date of Issue
(b) (6)	(b) (6)	Pennsylvania	15017	11:38 pm	December 31, 2016
TV channel	City Where Program was Viewed/Heard	Preferred Method of Response	Network		
504	Bridgeville	Email	ABC		
Call Sign	State Where Program was Viewed/Heard	Address 1	City		
WTAE	Pennsylvania	(b) (6)	Bridgeville		
Filing on Behalf of Someone					
No					

(b) (6) Jan 1, 1:12 AM

During mariah carey's live lip syncing snafu on ABC, the captions didn't quite accurately reflect what she way saying over the background track. Some sentences, especially at the beginning, we're out of order or quickly overrun by the captions of what the song was supposed to be (which she didnt sing)

(b) (6) Jan 9, 1:37 PM

(b) (6)

Your Ticket No. 1374895 was reviewed by the Disability Rights Office and determined that no further action is required. This seems to have been a one time problem with both captions and lip-synching due to human error. It is not a rules violation by the network.

Your complaint is closed as of today. However, you will have 30 days in which to notify us if you believe the matter has not been resolved satisfactorily.

Thank you for your complaint and help in furthering the FCC's mission on behalf of consumers.

Support Software by **Zendesk**