

Video Closed Captioning Rules Revised: Contact Info Must Be Published and Filed With the FCC; Other Revisions Considered

Legal Alert
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Contact Person Requirements

New FCC rules require all video programming distributors (VPDs), including over-the-air TV stations and cable systems, to make contact information available to consumers about closed captioning. The contact information must be filed with the FCC.

Contact information serves two distinct purposes:

1. Immediate Concerns – The number, fax, and email address of a knowledgeable person designated for receiving and responding immediately to closed captioning concerns, such as technical problems a consumer may have in viewing closed captioning; and
2. Written Complaints – The name, title, fax, mailing address and email address of the person with primary responsibility for captioning issues who would be available to handle written complaints about closed captioning that are not of immediate technical concern.

The FCC does not expect VPD's to alter their hours of operation. But, when staff is available to address technical issues that may arise during the course of transmitting programming, they must also be knowledgeable about and able to address closed captioning concerns. The FCC expects VPDs to take measures to accommodate incoming calls placed through Telecommunications Relay Service operators who assist persons with hearing disabilities. When VPD staff is not available, inquiries received at the contact point should be addressed within 24 hours.

The contact information must be posted on the VPD's web site (if it has one), published in telephone directories, and included in billing statements (to the extent billing statements are issued). The information must be kept current within 10 days for information posted on the web site, by the next billing cycle for billing statements, and by the next publication date for directories.

FCC Filing Requirement

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To assist consumers with locating contact information, the FCC will maintain a list of contacts on its web site. To establish the list, the FCC is requiring all VPD's to file the written contact information for both immediate concerns and written captioning complaints to the Chief of the Disability Rights Office, Consumer and Governmental Affairs Bureau, or by sending an email to ClosedCaptioning_POC@fcc.gov within 30 days of Federal Register publication of the notice announcing approval of this requirement by the Office of Management and Budget. Changes in contact information must be filed with the FCC within 10 days of the change.

New Complaint Procedures

In addition to adopting the rules relating to publishing and filing closed captioning contact information, the FCC adopted changes to its closed captioning complaint procedures to make them more efficient. Complaints must be in writing and filed by email, fax or letter with either the VPD or the FCC within 60 days of the captioning problem. The FCC is adopting a new Form 2000-C which may be used for complaints. VPDs must respond within 30 days of receiving the complaint and copy the FCC. If the VPD does not exercise editorial control over the programming, it must forward the complaint within seven days to the appropriate party and notify the FCC.

Clarification of Pre-Rule Programming Dates

The FCC clarified its rules to specify the dates by which pre-rule and new English and Spanish Language analog and digital non-exempt programming must be closed captioned, as follows:
Pre-Rule Programming – 1st exhibited before New Programming – 1st exhibited on or after Analog 1/1/1998 1/1/1998 **Digital** 7/1/2002 7/1/2002 **English Programs** As of 1/1/2008 – 75% of pre-rule programs must be closed captioned As of 1/1/2006 – 100% of new programs must be closed captioned **Spanish Programs** As of 1/1/2012 – 75% of pre-rule programs must be closed captioned As of 1/1/2010 – 100% of new programs must be closed captioned

Exemptions for Multicast Channels to be Determined

Finally, the FCC adopted a notice of proposed rulemaking to seek comments on whether each programming stream on a multicast signal constitutes a separate channel, or whether the broadcaster's entire operations attributable to its digital allotment should be considered one channel.

The distinction is important for determining whether a channel is exempt from closed captioning requirements. The FCC also solicits comments on whether it would be appropriate to adopt something other than a fixed revenue threshold for determining whether secondary multicast streams must be captioned.